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Stephen A. Conrad

"Through metaphor, the past has the capacity to imagine us, and we it."
—Cynthia Ozick, in "The Moral Necessity of Metaphor"[1]

American federalism is nothing more—and nothing less—than a metaphor. This was how James Wilson, the most prominent lawyer at the Philadelphia Convention, came to approach the novel problem of understanding and conveying what federalism in a modern republic should mean. The Federal Republic created in 1787 was, for Wilson, more than a matter of ingenious political design, more than a matter of the "new science of politics," and more than a matter of constitutional law or constitutionalism itself—unless the Constitution were seen to "comprehend" the moral purpose and moral promise of the new nation.

To Wilson, this view of the importance of the moral content of republican federalism was entailed by the "knowledge" that he took to be the necessary foundation of the Republic. It was this knowledge of certain fundamental principles—of "moral science," human nature, and the nature of language, and, more generally, of "cultivation" as a political and social process that was also an end in itself—that ultimately justified "the People" as the "sublime" metaphor governing American constitutional theory.

Yet, for all Wilson's faith in figurative "comprehensiveness," his distinctive approach to securing the New Republic through a federal union of the American People seems to have proved less and less compelling to his contemporaries the more he tried to pursue it as far as his vision of a politics of cultivation directed.

I. INTRODUCTION AND OVERVIEW

"[T]he text of the Constitution provides the beginning rather than the final answer to every inquiry into questions of federalism."
—Justice Blackmun, for the Court, in *Garcia v. SAMTA* (1985)[2]

1. The Moral Necessity of Metaphor: Rooting History in a Figure of Speech, Harper's Mag., May 1986, at 62, 68.

2. Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, 547 (1985).

The American Founding of the 1780s generated such novel formulations of federal theory that it should hardly be surprising that the language of those formulations is so ambiguous.[3] Ever since the 1780s this fund of ambiguity has helped to sustain disagreement—not least within our current Supreme Court—over what "conception" of federalism is "proper" to the Founding.[4] In the present essay I discuss the federal theory of James Wilson, a lawyer who was a leading founder,[5] in order to reconsider this problem of ambiguity by examining at some length how and why Wilson conceived his own theory of American federal union largely in terms of metaphor and other figurative language. Here I take this language to be not merely politic equivocation, incidental to the debates at the Founding, but a material part of Wilson's ambitiously "comprehensive" federal theory.

In other words, I try to take Wilson's figurative rhetoric as seriously as he

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3. For a valuable perspective on the novelty of American federal theory, see the substantially unpublished dissertation by Patrick Riley, Historical Development of the Theory of Federalism, Sixteenth-Nineteenth Centuries (Harvard University, 1968), esp. ch. xvi, as read in light of the preceding chapters. For the Founders' own avowals—and protestations—of novelty, the evidence abounds: e.g., Madison's Federalist Papers No. 37 at 233 and No. 14 at 88 (J. Cooke ed., Cleveland: World Publishing Co., 1961). Cf. 1 Max Farrand, ed., The Records of the Federal Convention of 1787, at 338 (4 vols.; rev. ed. New Haven, Conn.: Yale University Press, 1937) ("Farrand, Records"): Madison's Notes of June 20, reporting remarks of the soon-to-be Anti-Federalist John Lansing on the Virginia Plan: "He had another objection. The system was too novel & complex."

In contemplating throughout this essay what I consider the *positive capability* of ambiguity, I have been especially influenced by William E. Connolly, Politics and Ambiguity (Madison: University of Wisconsin Press, 1987), e.g., at xi: "the competing ideals of individualism and communalism, liberalism and radicalism, negative freedom and positive freedom, tend to converge in obscuring the ambiguous character of standards, ideals, and ends most worthy of endorsement."

For a characterization (by the leading historian of American federalism as it is embodied in constitutional *law*) of Madison's federal theory as "ambiguous," see Harry N. Scheiber, Federalism and the Constitution: The Original Understanding, *in* Lawrence M. Friedman & Harry N. Scheiber, eds., American Law and the Constitutional Order: Historical Perspectives 85, 87 (Cambridge, Mass.: Harvard University Press, 1978).

4. Quoting Martha A. Field, Comment—*Garcia v. San Antonio Metropolitan Transit Authority*: The Demise of a Misguided Doctrine, 99 Harv. L. Rev. 84, 85 (1985). Cf. Laurence H. Tribe, American Constitutional Law 154 (Mineola, N.Y.: Foundation Press, 1978) (re: "the *Younger* doctrine" and its aftermath in general, "it is clear from the Supreme Court's decisions that a concern for federalism is the chief underpinning of the *Younger* cases. The Court, however, has explained neither the exact content nor the precise status of that concern"). Cf. also Geoffrey R. Stone et al., eds., Constitutional Law 209 (Boston: Little, Brown & Co., 1986) (apparent consensus on the Court that "federalism serves important values"; "the real dispute" arises "over how the[se] values of federalism are to be protected"). See also the symposium in 19 Ga. L. Rev. 789 (1985), esp. the introduction by A.E. Dick Howard, at 789, *Garcia* and the Values of Federalism: On the Need for a Recurrence to Fundamental Principles.

5. The documentary record would seem to leave little room for doubt about Wilson's actual importance. See, e.g., Max Farrand's estimation of Wilson's standing at the Federal Convention itself; Farrand, The Framing of the Constitution of the United States 197 (New Haven, Conn.: Yale University Press, 1913) ("Farrand, Framing") (Wilson was "[s]econd to Madison and almost on a par with him. . . . In some respects he was Madison's intellectual superior"). Nevertheless, the durability of Wilson's renown has proved to be quite another matter. By the time of his early death in 1798, Wilson had already fallen into the obscurity in which his name still languishes. In a previous essay (cited *infra* note 12), I tried to begin to contribute both to earlier explanations for Wilson's fall and to earlier efforts to rehabilitate him. Professor Samuel H. Beer has kindly apprised me that his forthcoming synoptic study of American federalism will, in its treatment of the founding, focus largely on Wilson. I am also told that Professor Garry Wills will shortly be publishing a book on Wilson.

himself did.[6] At the Philadelphia Convention and afterward, Wilson adopted, adapted, or devised a number of figures of speech and figurative allusions with which to convey his vision of American federalism. And he marshaled this language prominently and consistently. But more to the point, he incorporated into his federal theory—if, indeed, he did not predicate it on—an elaborate moral epistemology that held figurative language and shared imagination to be at least as important as logical argument or reason itself. It would seem, then, that we cannot expect to understand this framer's theory of federalism in its own terms unless we understand something of his theory of metaphor.

The length of this article, not to mention its occasional and, I think, unavoidable allusiveness, calls for an overview of the general argument.

In *Section II*, I turn to what lay at the heart of Wilson's constitutional theory: his abiding concern with the "fundamental" authority of "moral science." Wilson approached practical moral theory as a true "science" precisely because he believed that the most important principles of practical morality are *empirically* verifiable.

Thus, while embracing the new American "science of politics," he resisted, in the name of "science," any notion of the autonomy of politics—or of any other endeavor of the mind. Instead, he insisted on deriving political science from the "just" principles of *moral* science. And here he was following

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6. In trying to take Wilson's rhetoric seriously, I need not subscribe entirely to—but I must and do gratefully acknowledge the influence of—the approach to "law as rhetoric" exemplified in the work of James Boyd White, who "has been the foremost rhetorician of law in our academic culture" (quot ➞ Richard H. Weisberg, Law and Rhetoric, 85 Mich. L. Rev. 920, 920 (1987)). See, e.g., White's Law as Rhetoric, Rhetoric as Law: The Arts of Cultural and Communal Life, 52 U. Chi. L. Rev. 684 (1985), esp. at 701: "Rhetoric, in the highly expanded sense in which I speak of it, might indeed become the central discipline for which we have been looking so long." White's article is a version of a chapter in his book Heracles' Bow: Essays on the Rhetoric and Poetics of the Law (Madison: University of Wisconsin Press, 1985). Cf. White's more recent exposition of his "literary-rhetorical view of intellectual and cultural life" in Thinking About Our Language, 96 Yale L.J. 1960, 1965 (1987).

For a useful dictionary of terminology—often figurative and/or rhetorical—associated with American federalism, see William H. Stewart, Concepts of Federalism (Lanham, Md.: University Press of America, 1984) (published as part of the Terminology of Federalism project of the Association of Centers for Federal Studies). And for recent examples of analysis *and critique* of the rhetoric of American federalism, see Peter Gabel, The Mass Psychology of the New Federalism: How the Burger Court's Political Imagery Legitimizes the Privatization of Everyday Life, 52 Geo. Wash. L. Rev. 263 (1984); Mark Tushnet, Deviant Science, 59 Tex. L. Rev. 815, esp. at 825 (1981) (on a Madisonian conception of "the social psychology of federalism" inhering in the "ties of affection and sentiment to the locality"). See also Milner S. Ball, Lying Down Together: Law, Metaphor, and Theology 72-76, 79–80, 90, 91, 113–14 (Madison: University of Wisconsin Press, 1985).

On the Founding itself, see John Zvesper's work treating the decade of the 1790s, Political Philosophy and Rhetoric: A Study of the Origins of American Party Politics (Cambridge: Cambridge University Press, 1977), e.g., at 15: "The major theme of this study is the tension between the practical aims and the rhetorical necessities of modern political philosophy."

The published work that is perhaps closest, in its approach and focus, to what I am attempting in the present essay is that of Albert Furtwangler, *viz.*, his American Silhouettes: Rhetorical Identities of the Founders (New Haven, Conn.: Yale University Press, 1987); and The Authority of Publius: A Reading of the Federalist Papers (Ithaca, N.Y.: Cornell University press, 1984). Cf. Daniel Walker Howe, The Political Psychology of *The Federalist*, 44 Wm. & Mary Q., 3d ser., at 483 (1987), esp. at 486, including the citations in n.4.

the lead not of David Hume but of Hume's most prominent contemporary critics, the Scottish Common Sense school of Thomas Reid and Reid's epigones. This moralistic approach to republican theory led Wilson to emphasize the moral capability of "the People" themselves as the "real" foundation of any republic.

In *Section III*, I examine Wilson's applications—and extensions—of this polite moral science in the context of the American Founding. I focus particularly on Wilson's Common Sense affirmations about the mimetic nature and moral capability of language. To Wilson, the moral significance of language was manifest, above all, in how the evidence of language testifies to the predominance of the "social operations" of the human mind. Faithful to Reidian Common Sense, but also appealing to the authority of American political experience, Wilson presumed to apply Reid's ideas by "extending" upon them. He took special pleasure in coining a new metaphor—"moral abstraction"—to convey to the citizens of the new American nation the "progressive" Common Sense argument that the human capacity to widen the ambit of social ties and affections is as strong, capable, and "susceptible of improvement" as is the human capacity to generalize from the particular to the general, through the mental process of "*intellectual* abstraction." By "moral abstraction," Wilson meant to invoke the mounting testimonials in the polite Atlantic culture of the day to the "powers of the imagination."

In *Section IV*, I explore how Wilson's linguistic turn in moral epistemology sustained his confidence in the epistemological authority of metaphor. I take as my point of departure a passage from Wilson's 1790-91 law lectures, which, when read in the context of his other writings, suggests how Wilson saw metaphor as a means not merely of conveying moral knowledge but also of acquiring and augmenting it.

Wilson had learned from Scottish Common Sense that metaphors are creations of the human imagination, but that imagination, as an act of human "reflection," is an operation as authentic to the mind as is any other. Thus reflection and imagination import the authority of that most compelling guide, *experience*. Still, Wilson's faith in the moral capability of the imagination—as epitomized for him in the moral capability of metaphor—was not entirely the result of his having imbibed so much Scottish philosophy. He was also inspired by his belief that for the first time a nation—America—had realized the politics of a true "civil society." This belief was crucial to Wilson's reconceptualizing the idea of "experience" itself so that it included the processes and products of the human imagination.

In *Section V*, I discuss the idea of figurative personality. It was chiefly through this idea that Wilson tried to comprehend how in a republic the People comprise both a single, general person and the aggregated respective personalities of the individual citizens. Convenient as this synthesizing ambiguity may have been for Wilson's politic purposes as an apologist for the "Federalist

persuasion," the ambiguity was nonetheless also genuinely important to his guiding vision of American republicanism as an enterprise in moral reform.

In this enterprise, American society, and each citizen, was under the duty to cultivate all the resources of personality—not least "self-knowledge." Since Common Sense taught that it is not reason but the moral sense that enables individuals and societies to determine their ultimate ends, Wilson justified his vision of the ultimate ends of American republicanism by recurring to the moral sense theory that the Common Sense school had "scientifically" rehabilitated. But in expounding his moral sense doctrine, he attended less to the technical arguments of philosophers than to the vindication of those arguments to be found in the nature of human language itself. Wilson was interested especially in what could be learned from language at its most "morally estimable." So strong, in fact, was the high-cultural orientation of Wilson's thought and so keen his interest in cultivated language that, in his theory of the American federal republic, *taste* became an analog of the *state* itself, and cultural management became a key task of Federalist politics.

In *Section VI*, I argue that, because Wilson's underlying *theory* of metaphor has been so little noticed, the significance of his metaphorical approach to American federalism has been substantially overlooked. The metaphors and other figurative language that Wilson used to develop his federal theory were intrinsic to that theory even—indeed, especially—when his language was at its most conventional: For him it was, after all, the "connexions," not the discontinuities, between the individual and the "publick" mind that must be the principal bonds of association in any truly republican federal union.

Although Wilson early joined in the campaign for national union, his federal theory was never as "consolidationist" as that of some of his eventual Federalist allies. But he did perhaps develop the most inherently positive notion of a federal American nation as an ideal important in itself—because, for Wilson, strong national government was an ideal instinct with the most progressive civic psychology of republicanism.

I try to reinforce this point by recalling that Wilson was credited with having coined the very term "Federal Republic" as the name for the new form of government proposed by the Philadelphia Convention. I then consider this coinage, like Wilson's coinage "moral abstraction," as *a metaphor*. Drawing on widely endorsed general theories of metaphor, I argue that to Wilson these two coinages served as metaphors for one another. And I compare and contrast Wilson with Madison in order to highlight the antireductive, intentionally ambiguous, essentially metaphorical nature of Wilson's approach to formulating and solving the very same problems of modern republicanism that engaged Madison.

How Wilson meant to incorporate yet transcend a Madisonian political science is substantially encapsulated in Wilson's prescription for "enlarging the sphere"—where Wilson refers not to a mere expansion of the territorial

sphere of politics but to enlarging the powers and the scope of the faculty of moral abstraction. For Wilson this prescription was the at once modern, "scientific," *and* authentically republican key to inculcating the "extended patriotism" a federal republic requires of its citizens.

In *Section VII*, I treat Wilson's "comprehensive" approach to understanding and explaining federal republicanism through his multiplication of metaphors for political representation. Through such metaphors Wilson developed a theory of representation that looked to the "sublimation" of the People themselves, over and above any process whereby the virtue of the People was to be "purified," or "refined," through representation as a means of *filtering* "the publick mind."

No less than Madison, Wilson exalted the importance of the electoral suffrage; but more than Madison he projected how the reciprocal effects of a general right of suffrage might improve "the People themselves." This was a matter that Wilson thought the new American political science had neglected. And it was a matter that he thought his metaphorical moral science was especially well suited to "elucidate."

Wilson's use of metaphors and other figurative language is sometimes interesting for the ambiguities it harnesses to Wilson's immediate purposes, for example, to justify the authority of an elected representative to lead rather than follow his constituency, while not exceeding his charge as *but a representative*. Wilson's metaphors and their ambiguities are more interesting, however, when Wilson addresses the problems and purposes of federal union. For it was only in discussing the politics of the "enlarged" territorial, psychic, and moral sphere that Wilson could move to the essential question about the *quiddity* of the American People, a question not about *who* but about *what* the federated American People represents. With this question Wilson intensified his focus on moral personality, and thus opened the way to a deeper appreciation of the moral capability of the federal design: By affording Americans *dual, concurrent* citizenship—in one of the several states *and* in the nation—federal union offered a historic opportunity for inculcating the sense of power combined with subordination that is essential to enlarging the moral capability of any citizen. But to Wilson even more important were the "expanded patriotism" and "expansion of mind" that federal union would afford as the basis of a true nation embodied in a great national government.

Yet Wilson expected from the American Federal Republic so much more of the true patriotism of moral imagination than had ever before been achieved that the only historical precedent for the American federal union he could countenance was the unrealized plan of Henry IV and Elizabeth I for a federation of Europe, in their legendary Grand Design. Such was Wilson's unabashedly visionary ideal of the new American nation.

Finally, in *Section VIII*, I conclude by taking account of the chief points in my analysis of Wilson's visionary constitutionalism and by reconsidering how

they bear on one another to yield, if not an exemplar or even a lesson, at least an example that should be of interest to constitutional historians and theorists today.

II. THE FUNDAMENTAL AUTHORITY OF "MORAL SCIENCE"

> "For a people wanting to themselves, there is indeed no remedy in the political dispensary."
>
> —Wilson, in his *Lectures on Law*[7]

Among his contemporaries Wilson was often said to be remarkably "erudite" and "profound."[8] Indeed, in what survives of his speeches, lectures, and judicial opinions, his erudition is still rather hard to overlook. But Wilson's contemporary reputation as one of the most profound, most "philosophical" of the framers at Philadelphia now begs explanation. In a sense, it did even at the time. In the series of lectures he prepared for delivery to law students in Philadelphia in the early 1790s, Wilson went to great lengths to explain why he believed it necessary to base the founding of the new nation, in turn, on the "solid foundation"[9] of contemporary philosophy. And, while it was no more unorthodox in the late 18th century[10] than it is in the late 20th[11] to view

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7. See text *infra* at note 31.

8. See, e.g., the characterizations of Wilson by contemporary witnesses in 3 Farrand, Records 91–92 (William Pierce) & 236–37 (a French diplomat); George W. Corner, ed., The Autobiography of Benjamin Rush: His "Travels Through Life" together with his *Commonplace Book* for 1789-1813, at 150 (Princeton, N.J.: Princeton University Press, 1948) ("Corner, ed., Autobiography of Rush"); John Bach McMaster & Frederick D. Stone, eds., Pennsylvania and the Federal Constitution, 1787–1788, at 183 (Lancaster: Historical Society of Pennsylvania, 1888) ("McMaster & Stone"): Wilson was said, by an Anti-Federalist critic, to be "a man of sense, learning and extensive information"; Burton A. Konkle, The Life and Times of Thomas Smith, 1745–1809, A Pennsylvania Member of the Continental Congress 193–94 (Philadelphia, 1904) (Jasper Yates, commenting on Wilson's Nov. 24, 1787 speech at the Pennsylvania ratifying convention) (repub. on microfiche frame 242 in the microfiche supplement to The Documentary History of the Ratification of the Constitution, vol. 2—Ratification of the Constitution by the States: Pennsylvania, ed. Merrill Jensen (Madison: State Historical Society of Wisconsin, 1976) ("Jensen, ed.").

For testimonials to Wilson's erudition and/or profundity by some later authorities, see 1 Robert Green McCloskey, ed., The Works of James Wilson 2 (Cambridge, Mass.: Harvard University, Belknap Press, 1967) (2 vols. consecutively paginated) ("McCloskey, Works"); McCloskey's short article, James Wilson, *in* 1 Leon Friedman & Fred L. Israel, eds., The Justices of the United States Supreme Court, 1789–1969: Their Lives and Major Opinions 79, 79 (New York: R.R. Bowker Co., 1969) ("McCloskey, James Wilson"); McMaster & Stone at 758; Randolph G. Adams, ed., Selected Political Essays of James Wilson 41–42 (New York: Alfred A. Knopf, 1930) ("Adams, Selected Essays"). See ; → Adams, The Legal Theories of James Wilson, 68 U. Pa. L. Rev. & Am. L. Reg. 337, esp. at 337–38 (1920) (reprinted as ch. 7 in Adams, Political Ideas of the American Revolution: Britannic-American Contributions to the Problem of Imperial Organization, 1765–1775 (3d ed. New York: Barnes & Noble, Inc., 1958) ("Adams, Legal Theories"), ("Adams, Political Ideas").

9. 1 McCloskey, Works 222–23 and *passim*.

10. See, e.g., Morton White, Philosophy, *The Federalist*, and the Constitution (New York: Oxford University Press, 1987). Cf. Paul Eidelberg, The Philosophy of the American Constitution (New York: Free Press, 1968). But for a brief critique of Morton White's "static . . . account of philosophy" in The Federalist, see the review by G. Edward White in 74 J. Am. Hist. 499–500

American constitutionalism as inextricable from underlying philosophical principles, Wilson was especially emphatic and assiduous in elaborating this view.

The philosophical principles that Wilson expounded were not original to him; nor did he claim to have organized, much less to have invented, an integral "system" of thought. His philosophy was, instead, a congeries of "polite"[12] principles of the day that were, he thought, nonetheless harmonious, even mutually authorizing—and not merely useful and pleasing to contemplate but also, and above all, true. Knowing, not merely thinking or learning, was for Wilson the ultimate aim of any inquiry aptly called philosophical; and thus all philosophy should aspire to "science," in the strictest cognate meaning of that nearly universal term of the era.

To understand Wilson's reputation in his own day as perhaps the most philosophical of the framers it is important to appreciate how he could and did, while impressing without surprising his contemporary audiences, orient all his ideas on law, politics, and society toward practical philosophy and, at the same time derive all practical philosophy from an elemental moral epistemology so "true," so certain that it constituted for him an authentic "moral science." Here, as in other aspects of Wilson's approach at its most philosophical, the apparent contrast with Madisonian theory is instructive.

For example, in a noted[13] passage in *Federalist* No. 37, Madison seeks in part to justify the imperfection and inconclusiveness of Federalist "political science" by alleging the limited capacity of other sciences—even the most advanced or important sciences, like those that address the physical world or the

(1987). And for an interesting critique of Eidelberg's application of "Aristotelian criteria," see Paul Peterson, The Meaning of Republicanism in The Federalist, *in* Daniel J. Elazar, ed., Republicanism, Representation, and Consent: Views of the Founding Era 43–76 (New Brunswick, N.J.: Transaction Books, 1979) (reprinted from 9 Publius, The Journal of Federalism (1979)).

11. A convenient and broad (even if slightly dated) attempt at a survey of current proponents of this view is to be found in Laurence E. Wiseman, The New Supreme Court Commentators: The Principled, the Political, and the Philosophical, 10 Hast. Const. L.Q. 315 (1983). For criticism of the "philosophical" approach to American constitutional theory, see, e.g., Michael Walzer, Philosophy and Democracy, 9 Pol. Theory 379 (1981); and John Hart Ely, Democracy and Distrust: A Theory of Judicial Review 56-60 (Cambridge, Mass.: Harvard University Press, 1980).

12. See Stephen A. Conrad, Polite Foundation: Citizenship and Common Sense in James Wilson's Republican Theory, 1984 Sup. Ct. Rev. 359 ("Conrad, Polite Foundation"). Cf. the work of Lawrence Eliot Klein, refining and extending arguments in Klein's dissertation, The Rise of "Politeness" in England, 1660-1715 (Johns Hopkins University, 1983); e.g., Lawrence Klein, The Third Earl of Shaftesbury and the Progress of Politeness, 18 Eighteenth-Century Stud. 186 (1984–85); and Lawrence E. Klein, Berkeley, Shaftesbury, and the Meaning of Politeness, 16 Stud. in Eighteenth-Century Culture 57 (1986). And cf. comments on the ideal of "politeness" in J.G.A. Pocock, Virtue, Commerce, and History: Essays on Political Thought and History, Chiefly in the Eighteenth Century, e.g., 114–15, 236–37, and *passim* (Cambridge: Cambridge University Press, 1985) ("Pocock, Virtue"). Indeed, a prominent review of this collection of essays by Professor Pocock focuses on precisely the theme in question: Mark Goldie, The Rise of Politeness, Times Literary Supp., June 27, 1986, at 715; cf. the review, Conrad, 5 Law & Hist. Rev. 286 (1987).

13. E.g., David F. Epstein, The Political Theory of The Federalist 114-18 (Chicago: University of Chicago Press, 1984) ("Epstein, Political Theory"); Aviam Soifer, Truisms That Never Will Be True: The Tenth Amendment and the Spending Power, 57 U. Colo. L. Rev. 793, 812 n.77 (1986).

human mind itself. Owing to the very procedures in which the meaning of "science" inheres, no science, says Madison, can pretend to determinate knowledge: Science, strictly speaking, is an endeavor "to contemplate and discriminate objects, extensive and complicated in their nature," in order to make "distinctions," to "trace boundaries," to classify, and thus ultimately to "define" with such "precision" the nature of and relationships among the objects of study that they no longer occasion "ingenious disquisition and controversy." Science is, then, something more than informed opinion and contingent consensus only to the extent—albeit the considerable extent—of the virtues of scientific procedure.[14]

Wilson, on the other hand, conceived of science somewhat differently, not only as to its established capacity and its ultimate aims, but even as to its characteristic procedures. He tended to discount analysis and to disparage definitions. During one of his early law lectures, in what he acknowledged might seem an "excursion"[15] from his task at hand (conveying to his students a "conception" of "law in general"), and in a contrasting parallel to Madison's "skeptical digression"[16] in *Federalist* No. 37, Wilson seems to have eschewed as *un*scientific exactly what Madison had portrayed as necessary (if not also sufficient) to the practice of science, namely, definition and analysis: "I am not insensible [said Wilson] of the use, but, at the same time, I am not insensible of the abuse of definitions. In their very nature, they are not calculated to extend the acquisition of knowledge, though they may be well fitted to ascertain and guard the limits of that knowledge, which is already acquired."[17]

Moreover, he added, any method of inquiry that posits definitions, with an eye to building extensive "systems"[18] upon them, threatens to conceal much knowledge that might otherwise lie within our reach. Definitions and the systems of classification built upon them, "unless they are marked by the purest precision, the fullest comprehension, and the most chastised justness of thought [rigorous empiricism] . . . will perplex instead of unfolding . . . will darken instead of illustrating."[19]

Although it is clear from the writings of Wilson and Madison generally

14. The Federalist No. 37, at 234–37 (J. Cooke ed. 1961). But notice the apparent contrast between the way Madison here speaks of the sciences, including political science, and the way Hamilton, in Federalist No. 9, at 51, speaks on the same subject: "The science of politics, however, like most other sciences has received great improvement [of late]. The efficacy of various principles is now well understood, which were either not known at all, or imperfectly known to the ancients." The tension in evidence here is nicely captured in Morton White's discussion of the "principles" of the American Revolution itself, in The Philosophy of the American Revolution 230–39 (New York: Oxford University Press, 1978).

15. 1 McCloskey, Works 101 (cited in note 8).

16. The phrase is Epstein's (cited in note 13); see at 117; cf. at 114, where Epstein characterizes the passage in question as "a short essay concerning the human understanding."

17. 1 McCloskey, Works 98.

18. *Id.* at 371 (Wilson against Cartesian "love of system"); cf. at 200.

19. *Id.* at 99. In his law lectures Wilson recalls these earlier passages when he later turns to the importance of the "social operations" of the human mind, at 229ff. See my discussion of these "social operations," *infra* text at note 82ff.

that their respective conceptions of science were not as divergent as these isolated passages might suggest—or were, indeed, not basically at odds at all—these passages do point to a difference in emphasis that discloses an important difference (though not necessarily a disagreement) in outlook. Madison, the prudent, complex skeptic, here sounds resigned to a species of scientific "truth" that is tentative, contingent, and "unavoidably" incomplete; whereas Wilson affirms a conception of science *as knowledge* in which, together with "precision," "the fullest comprehension", or comprehensiveness, is of the essence.[20]

In all their theoretical ruminations, both these founders, unsurprisingly, tended to invoke the authority of modern "science" and to embrace empiricism as the touchstone of any scientific method.[21] And Madison, as well as many another American Federalist, consistently voiced a concern for precision and comprehensiveness in his political thought. But Wilson's distinctive concern for, at the same time, both "the purest precision" and "the fullest comprehension" led him at times to a distinctive approach in his attempt to appropriate the authority of "science" to Federalist apologetics.

Still, it was not so much science in general as it was one fundamental science that Wilson sought to enlist in the Federalist cause. This was "the science of morals." And it is here that the apparent contrast between Wilson and Madison may seem especially striking. On the one hand, Wilson's moralistic emphasis might seem to root his ideas firmly in a now distant early modern period. On the other hand, nothing in Madison's genius can still seem more accessibly modern than Madison's concern to formulate a constitutionalism which, while it might "economize on virtue"[22] and even encourage moral growth,[23] would not need to draw routinely on the resources of civic morality in order to give effect to the Federalists' new design for the nation.[24]

Although Wilson at times subscribed to what have come to be called

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20. See 1 McCloskey, Works 200, for an example of Wilson's vehemently shunning reductionism.

21. For Wilson's earnestly—even if problematically—empirical conception of political science, see *id.* at 390. Cf. Madison in Federalist No. 14 at 83–89, 87 & *passim* (J. Cooke ed. 1961), on the importance in political science of "good sense" and of knowledge of one's own particular situation and experience. For analysis of The Federalist that posits an interplay there between "Lockean rationalism" and "Humean empiricism," see Morton White, Philosophy, *The Federalist*, and the Constitution *passim* (New York: Oxford University Press, 1987).

22. I take this phrase fr→ Bruce A. Ackerman, The Storrs Lectures: Discovering the Constitution, 93 Yale L.J. 1013, 1031 & *passim* (1984).

23. Cf. James Madison's Autobiography, ed. Douglass Adair, 2 Wm. & Mary Q., 3d ser., 191 (1945), esp. at 197, where Madison contemplates the polite theme of the contemporary "taste for the improvement of the mind and manners."

24. Cf. Epstein, Political Theory (cited in note 13), esp. at 62 & 64. Still, it has become common for scholars to notice, and even emphasize, something not unlike an apparent moralism in Madison's occasional remarks—thus Meyer Reinhold, in his Classica Americana: The Greek and Roman Heritage in the United States 145 (Detroit: Wayne State University Press, 1984) (citing Paul Merrill Spurlin, Montesquieu in America, 1760–1801, at 261–62 (University: Louisiana State University Press, 1940)): "The primacy of virtue in a republic had the support also of Madison, who said in the debate on the Constitution at the Virginia ratifying convention: 'No theoretical checks, no form of government can render us secure. To suppose that any form of

Madisonian claims about the importance of the structure and operations of political institutions,[25] nevertheless, his distinctive and doctrinaire emphasis on "the people" as the most important, even if impalpable, institution of republican government led him to a corresponding emphasis on civic morality that is notable for so prominent a Federalist. Wilson could and did agree that the superstructure of any republican government must be "formed . . . proportioned, and organized in such a manner" that "wisdom and strength" would stand as the twin "pillars" supporting the institutional "fabrick." It is nevertheless, he insisted, "on the basis of goodness" alone that these pillars must rest; and this basis of goodness must consist in "the people at large."[26] Madison, for his part, similarly acknowledged that, "A dependence on the people is, no doubt, the primary controul"[27] on a republican government. But, characteristically, Madisonian theory thereupon proceeds to emphasize "the necessity of auxiliary precautions"[28] and to contemplate the best mechanisms for "correcting the infirmities of popular Government."[29]

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government will secure liberty or happiness without any virtue in the people, is a chimerical idea.' "

As these remarks might be taken to indicate, it is unlikely that Madison believed, and it is inconceivable that he would have professed at the Virginia ratifying convention, that the American republic could entirely dispense with "virtue" or "moral foundations." Again, my point of contrast between Madison and Wilson is a matter of relative emphasis and of differing conceptions of the American moral economy—not a matter of a wholesale difference in operative constitutional theory. Cf. Lance Banning, Some Second Thoughts on "Virtue" and the Course of Revolutionary Thinking, *in* J.G.A. Pocock & Terence Ball, eds., Conceptual Change and the Constitution (Lawrence: University of Kansas Press, forthcoming 1988) (manuscript kindly supplied by Professor Banning) ("Pocock & Ball. eds.").

Moreover Hamilton, in Federalist No. 31, at 194–95 (J. Cooke ed. 1961), tends to pair in a single phrase "the sciences of morals and politics" to affirm the "principles of moral and political *knowledge*" (emphasis added) and the "degree of certainty" that attends them, even if it is a lesser degree than is sometimes found in "mathematics," e.g., in the "maxims," or axioms, or "geometry."

25. E.g., 1 McCloskey, Works 289-90. Cf. Lance Banning, The Practicable Sphere of a Republic: James Madison, the Constitutional Convention, and the Emergence of Revolutionary Federalism, *in* Richard Beeman et al., eds., Beyond Confederation: Origins of the Constitution and American National Identity 162, 182 (Chapel Hill: University of North Carolina Press, 1987) ("Beeman et al., Beyond Confederation").

26. 1 McCloskey, Works 303; 2 McCloskey, Works 778; cf. vol. 1 at 174, 290, & 315. Contrast Hannah Arendt, On Revolution (rev. ed. Harmondsworth, Eng.: Penguin Books, 1965) ("Arendt, On Revolution"), esp. at 203: "What counted was neither wisdom nor virtue, but solely the act [of Foundation] itself, which was indisputable." Cf. my text *infra* at note 44.

27. Federalist No. 51, at 349 (J. Cooke ed. 1961). Cf. Washington, in a letter of Feb. 7, 1787, to Marquis de Lafayette, as excerpted in Michael Kammen, ed., The Origins of the American Constitution: A Documentary History, 101, 102 (New York: Viking Penguin, 1986) (under the proposed Constitution "the general government is arranged [such] that it can never be in danger of degenerating into a monarchy, an Oligarchy, an Aristocracy, or any other despotic or oppressive form, so long as there shall remain any virtue in the body of the People.").

28. Federalist No. 51, at 349 (J. Cooke ed. 1961).

29. In Madison's 1788 Remarks on Mr. Jefferson's Draft of a Constitution, *in* Marvin Meyers, ed., The Mind of the Founder: Sources of the Political Thought of James Madison 56 (1st ed. Indianapolis: Bobbs-Merrill Co., 1973) ("Meyers, Mind of the Founder, 1st ed.").

The shifts in point of view within this paragraph are intentional. Through them I mean to allude to an important problem to which I try to remain sensitive throughout this essay: the ambiguous relationship between, on the one hand, Madison's actual statements and restatements of his constitutional theory at particular times, and, on the other hand, reified "Madisonian the-

Without ever contradicting Madisonian theory, Wilson typically advocated structures and procedures of government more thoroughly and more directly popular than those Madison preferred. And Wilsonian theory consistently proves loath to turn its focus away from its dearest first principle:[30] "For a people wanting to themselves, there is indeed no remedy in the political dispensary. From their power there is no appeal: to their errour their is no superiour principle of correction."[31]

Thus given over, at least by the late 1780s,[32] to a "democratic faith"[33] about which Madison and most other Federalists had grown more doubtful, Wilson might seem to us to have been harking back nostalgically to an inexperienced, early Revolutionary republicanism—if not, indeed, to the seminal republican theory of Montesquieu himself.[34] But, in any case, this was not the way Wilson saw the matter. Rather, in muting what is now sometimes taken to be a prototypically modern and recognizably Humean strain in Federalist theory[35]—that is, by resisting the notion that the principles of republican government may constitute an autonomous science and may, indeed, be "reduced" to such a science[36]—Wilson was convinced he spoke for the

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ory" as it has been variously synthesized so as to take on a significance of its own quite distinct if not necessarily different from anything or even everything Madison actually said.

30. See, e.g., Wilson's speech of Nov. 24, 1787, in the Pennsylvania ratifying convention, in Jensen, ed., at 349 (cited in note 8); cf. at 362.

31. 1 McCloskey Works 296 (remarking, in his law lectures, on the significance of the "next election" as a "remedy" for "mischief" in government); cf. 2 McCloskey, Works 724, in a celebrated pamphlet of 1774: "If, then, the inhabitants of Britain possess a sufficient restraint upon any of these branches of the legislature, their liberty is secure, provided they be not wanting to themselves." And cf. the very similar formulation of this thought in Jensen, ed., at 349; cf. at 362.

32. → George M. Dennison, The "Revolution Principle": Ideology and Constitutionalism in the Thought of James Wilson, 39 Rev. Pol. 157 (1977), esp. at 164ff.

→ Andrew C. McLaughlin, James Wilson in the Philadelphia Convention, 12 Pol. Sci. Q. 1, 15 (1897).

34. See, e.g., Montesquieu's fable of "the Troglodytes" *in* The Persian Letters (1721), ed. & trans. J. Robert Loy, at 59–66 & 284–85 (New York: World Publishing Co., 1961).

35. On the distinct but related issue of interpreting the political theory of Hume himself as "modernizing" or not, and, indeed, "republican" or not, see Duncan Forbes, Hume's Science of Politics, *in* G.P. Morice, ed., David Hume: Bicentenary Papers 39 (Edinburgh: Edinburgh University Press, 1977) ("Morice on Hume"). Cf. Forbes, Hume's Philosophical Politics (Cambridge: University Press, 1975); Frederick G. Whelan, Order and Artifice in Hume's Political Philosophy (Princeton, N.J.: Princeton University Press, 1985); David Miller, Philosophy and Ideology in Hume's Political Thought (Oxford: Clarendon Press, 1981).

From Whelan's "perspective" on this matter, "it is ironic than an uncharacteristic speculation of Hume's [in the essay Idea of a Perfect Commonwealth] was apparently influential in shaping the thought of James Madison. . . . The irony is that Hume offers this highly untypical essay as a speculative exercise, almost a *jeu d'esprit*, and he begins it with the disclaimer that to 'try experiments merely upon the credit of supposed argument and philosophy, can never be the part of a wise magistrate. . . .' Hume's empiricism of course permits and indeed encourages cautious experimentation . . . within limits that are difficult to specify. The confidence that the *Federalist* authors and other American revolutionaries expressed in philosophy or science as a guide to fashioning new governments, however, often seems to have exceeded these limits." Whelan, *supra*, at 342-43. But → James Moore, Hume's Political Science and the Classical Republican Tradition, 10 Can. J. Pol. Sci. 809 (1977), esp. at 833–39.

36. I allude here to themes prominent in a sequence of scholarly literature commonly traced to several articles → Douglass Adair, beginning with "That Politics May Be Reduced to a Science": David Hume, James Madison, and the Tenth *Federalist*, 20 Huntington Lib. Q. 343 (1957). Those articles, and later scholarship in the same vein, are conveniently reviewed, and pointedly

progressive and scientific van of contemporary republicanism.

It was, then, expressly to "science," understood as knowledge, and, more specifically, to recent progress in science, that Wilson appealed in order to justify his unexceeded optimism about a foundation for the Constitution in the "goodness" of "the people."[37] And in espousing his optimism, Wilson made it clear that, for justification, he did *not* look chiefly to political science, which he considered a science yet in its "infancy,"[38] and, at best, a science still insufficiently "unbiassed," even by 1790, to import the full authority of science at all.[39]

By turning, instead, to authoritative new discoveries in "moral science," Wilson meant to address the problems of ambivalence and pessimism that colored the republican theory of even the most admired progressive champions of "enlightenment" in Europe: Despite the authority of the mordant scenarios of Montesquieu's *histoire raisonnée*,[40] and in the face of the discouraging catalog of violence and despotism in Beccaria's universal history of nation building,[41] Wilson invoked the authority of new knowledge about the moral capability of human nature. Thus, at once "comprehending" but superseding the earlier best wisdom of European republican theorists, Wilson envisioned that Americans were in a position to hope more for popular government than Montesquieu or Beccaria had ever imagined. And Wilson believed this hope was thoroughly justified by the new knowledge that now for the first time promised an authentically popular redemption of the republican ideal.

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disputed → James Conniff in The Enlightenment and American Political Thought: A Study of the Origins of Madison's *Federalist Number 10*, 8 Pol. Theory 381 (1980). For an account of Madisonian theory as Humean in ways that Adair's articles, and work derived from them, do not tend to emphasize, → Roy Branson, James Madison and the Scottish Enlightenment, 40 J. Hist. Ideas 235 (1979).

37. Cf. one of Wilson's most characteristic and most quoted public remarks, e.g., as one reporter recorded it from Wilson's Nov. 24, 1787 speech: "After a period of six thousand years has elapsed since the Creation, the United States exhibit to the world, the first instance, as far as we can learn, of a nation, unattacked by external force, unconvulsed by domestic insurrections, assembling voluntarily, deliberating fully, and deciding calmly, concerning that system of government, under which they would wish that they and their posterity should live." Jensen, ed., at 353; cf. at 342 (cited in note 8). In this or a similar formulation Wilson's remark has been quoted by, e.g., Donald H. Meyer, The Democratic Enlightenment 154 (New York: G.P. Putnam's Sons, Capricorn Books, 1976); and by Farrand, Framing, at 62 (cited in note 5). Cf. Hamilton's seemingly less reassured and less reassuring view of the same historic moment as a "crisis," in which Americans had yet to resolve "the important question, whether societies of men are capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force." Federalist No. 1, at 1 (J. Cooke ed. 1961).

38. Jensen, ed., at 353; cf. at 342. See also 1 McCloskey, Works at 80. And cf. 2 McCloskey, Works at 785, and my discussion in sec. VII *infra* at note 213.

39. 1 McCloskey, Works 80. Cf. Madison in Federalist No. 37, e.g., at 235 (J. Cooke ed. 1961): "Questions daily occur in the course of practice, which prove the obscurity which reigns in these subjects, and which puzzle the greatest adepts in political science."

40. See, e.g., Montesquieu's Considerations on the Causes of the Greatness of the Romans and Their Decline (1734, 1748), trans. David Lowenthal (Ithaca, N.Y.: Cornell University Press, 1968); cf. Montesquieu's fable of "the Troglodytes" (cited in note 34).

41. 1 McCloskey, Works 263 (citing Beccaria's famous Essay on Crimes and Punishments, ch. 26).

Wilson averred that one great source of this new knowledge, about the feasibility and necessity of thoroughly popular republicanism, lay in the experience of the American Revolution itself.[42] But to rest content with the knowledge, however momentous, that had been realized in the American revolutionary experience would be tantamount to reducing a progressive "revolutionary principle" to a hidebound "revolutionary precedent." It was just such a reductive tendency that Wilson saw and deplored in the conventional British constitutional theory codified, as it were, by Blackstone, which diminished the Glorious Revolution of the 1680s by making too much of the event itself and too little of its essential, even if inchoate, principle: that political obligation must be grounded on consent.[43]

Wilson's distinction between "revolutionary principle" and "revolutionary precedent"—and his anxious concern that even in America the latter might eclipse the former—are only the most telling of many indications that he thought it not simply wrong but dangerous to exalt political experience as self-justifying. It is, then, only by ignoring much of what is most characteristic of Wilson's mature constitutional theory that we could, following Hannah Arendt's "interpretation of the success of the American Revolution in terms of the Roman spirit," impute generally to the American founders the notion that the Americans' very "act of foundation" authorized itself.[44]

In the late 1780s and 1790s, Wilson's anxious appeal for authority beyond the Revolutionary experience, beyond the subsequent and "augmenting" act of foundation itself,[45] and even beyond the new "science of politics" that became both talisman and legacy of the Federalist campaign,[46] is most evident in Wilson's appeal to the authority of "moral science." And so far from looking for guidance to David Hume, or to any Humean orientation of the day, for a philosophical authorization of American Federalist theory, Wilson couched his appeal to moral science in the terms of an elaborate refutation of the speculative skeptical philosophy Hume personified.

On at least one occasion Wilson referred to Hume, although only in passing and apparently not by name, as "a very sensible writer on political sub-

42. Jensen, ed., at 362; cf. at 348.

43. 1 McCloskey, Works 77–79. Cf. Jensen, ed., at 343: "even at the Revolution [of 1688], when the government was essentially improved, no other principle was recognized, but that of an original contract between the sovereign and the people—a contract which rather excludes than implies the doctrine of representation." Cf. at 354. And see generally Stanley N. Katz, The American Constitution: A Revolutionary Interpretation, in Beeman et al., Beyond Confederation, at 23-37, esp. 32–33 (cited in note 25); David S. Lovejoy, The Glorious Revolution in America (New York: Harper & Row, 1972), e.g., at 182 (reference to assertion of a principle of "consent to laws and taxes"); H.T. Dickenson, The Eighteenth-Century Debate on the "Glorious Revolution," 61 History 28 (1976).

44. Arendt, On Revolution ch. 5, at 199, 203, and *passim* (cited in note 26). Cf. Richard S. Kay, Preconstitutional Rules, 42 Ohio St. L.J. 187 (1981); Kay, The Illegality of the Constitution, 4 Const. Commentary 57 (19[illegible] → Kent Greenawalt, The Rule of Recognition and the Constitution, 85 Mich. L. Rev. 621 (19[illegible] → Ackerman, 93 Yale L.J. at 101ff. (cited in note 22).

45. Arendt at 201–3.

46. Cf. Gordon S. Wood, The Creation of the American Republic, 1776–1787, esp. ch. XV (New York: W.W. Norton, 1969) ("Wood, Creation").

jects."[47] But usually Wilson spoke as ill of Hume as of Blackstone. Indeed, Wilson considered Hume an even more pernicious thinker than Blackstone: for if Blackstone was, as Wilson said, a covert apologist for despotism, Hume was a subtle enemy of human knowledge itself, who thus would disarm mankind of its chief weapon not only against despotism but also against every other threat to human happiness.[48]

The animus against Hume that pervades Wilson's mature constitutional theory was really, then, something of a fixated reaction to only one part of the product of Hume's versatile pen. Wilson does not seem to have troubled with, or been troubled by, Hume's Tory histories or Hume's elegant essays on social, political, and moral theory. It was, rather, Hume's promotion of the "profound . . . abstract philosophy . . . commonly called *metaphysics*"[49]—in other words, Hume's speculative claims about certain fundamental matters of epistemology and human nature—that so provoked Wilson. Hypersensitive to the doctrine of "universal scepticism" that Hume seemed to teach,[50] and unwilling to contemplate the detachment of "speculative philosophy" from "practical philosophy" and social life,[51] Wilson came to believe there was nothing more important to securing the American republic than the reconstruction of the "polite" unity of truth, virtue, and happiness as a premise for republican civic culture.[52]

Whether Hume is fairly judged to have stood among or against the advocates of "politeness,"[53] especially as it might inform republican civic culture,[54]

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47. 1 McCloskey, Works 297.

48. *Id.* 79, 103–5, 214, 216, 221–22. Cf. Conrad, Polite Foundation, esp. at 375–76 (cited in note 12). And cf. Donald W. Livingston, Hume's Philosophy of Common Life 25 (Chicago: University of Chicago Press, 1984): "Until well into the twentieth century, Hume's philosophical writings were viewed as skeptical in an especially vicious way."

49. Here I am quoting from Hume's Section I, Of the Different Species of Philosophy, *in* An Enquiry Concerning Human Understanding (1777 ed.), at paras. 5 & 9, in Enquiries Concerning Human Understanding and Concerning the Principles of Morals, ed. L.A. Selby-Bigge; 3d ed., ed. P.H. Nidditch, at 9 & 11 (Oxford: Clarendon Press 1975) ("Nidditch, ed.").

50. Cf. the following passage, as quoted from Hume—in order to illustrate his epistemology at its most Pyrrhonist extreme—in Henry Laurie, Scottish Philosophy in Its National Development 62 (Glasgow: James Maclehose & Sons, 1902): "The most perfect philosophy of a natural kind only staves off our ignorance a little longer; as perhaps the most perfect philosophy of the moral or metaphysical kind serves only to discover larger portions of it." Contrast, however, the analysis of Hume's speculative philosophy by John P. Wright, The Sceptical Realism of David Hume (Minneapolis: University of Minnesota Press, 1983); see esp. Wright's last chapter, on Descartes and Malebranche as important sources for Hume's "sceptical realism" in his conception of human nature.

51. Cf. Hume in sec. IX, pt. II, para. 228 of An Enquiry Concerning the Principles of Morals, *in* Nidditch, ed., at 279 (cited in note 49): "Truths which are *pernicious* to society, if any such there be, will yield to errors which are salutary and *advantageous*." For an interpretation of Hume's practical philosophy that is particularly attentive to the Common Sense context and content of Hume's writings generally, see David Fate Norton, David Hume: Common-Sense Moralist, Sceptical Metaphysician (Princeton, N.J.: Princeton University Press, 1982) ("Norton on Hume").

52. Cf. 1 McCloskey, Works 147 & *passim* (cited in note 8).

53. On Hume as a partisan of "politeness," see John Christian Laursen, From Court to Commerce: David Hume and the French Vocabulary of "Politeness" in the Scottish Enlightenment (essay presented at a conference on "The Political Thought of the Scottish Enlightenment in Its European Context," Edinburgh, Aug. 1986, and distributed by the Conference for the Study

Wilson endorsed the adversarial school of contemporary philosophy that consolidated under the leadership of Hume's leading critic Thomas Reid and that took its identity from its aversion to Hume's "insideous" and "illiberal" skepticism. This was the self-proclaimed Common Sense school, whose name signified their championship of the "sovereign" moral and epistemological authority of the mental faculty of "Common Sense," and whose mission eventually extended to a defense of all polite culture against the Humean threat.[55] Because the burden of argumentation by the Common Sense philosophers lay chiefly, however, with the crucial question of the "truth" of men's "moral beliefs,"[56] the term "moral science" came to epitomize what they were most determined to establish.

James Beattie, the leading contemporary popularizer of Reidian Common Sense, chose for his most accessible compendium of Common Sense doctrine the title *Elements of Moral Science*. This two-volume work comprised Beattie's "abridgment" of the course of lectures he regularly gave at his own Scottish university, in Aberdeen.[57] But the Aberdonian Dr. Beattie was lionized as a didact much more in England and in America than at home in Scotland, and the *Elements of Moral Science*, together with Beattie's other works and those of Reid and other members of their school, became a staple of belletristic literature in the new American republic, especially in the "wholly and *highly* federal"[58] capital Philadelphia.[59]

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of Political Thought). Cf. Laursen, Sceptical Politics in Hume and Kant: Letters, Philosophy, and the Language of Politics chs. 2 & 4 (Ph.D. diss., Johns Hopkins University, 1985). And → Ralph S. Pomeroy, Hume's Proposed League of the Learned and Conversible Worlds, 19 Eighteenth-Century Stud. 373 (1986); Nancy S. Struever, The Conversable [*sic*] World: Eighteenth-Century Transformations of the Relation of Rhetoric and Truth, *in* Rhetoric and the Pursuit of Truth: Language Change in the Seventeenth and Eighteenth Centuries 77, esp. 79–94 (Los Angeles: Clark Memorial Library, University of California, 1985).

54. Forbes, in Hume's Science of Politics, at 42 (cited in note 35), reminds us that "Rousseau wrote in his *Confessions* of Hume's '*ame republicaine*' "; and Forbes himself refers to "Hume's republicanism," albeit a republicanism "purely academic." → Moore, 10 Can. J. Pol. Sci. (cited in note 35).

55. Stephen A. Conrad, Citizenship and Common Sense: The Problem of Authority in the Social Background and Social Philosophy of the Wise Club of Aberdeen, esp. chs. 4-8 (New York: Garland Publishing Co., 1987) ("Conrad, Citizenship").

56. The most forceful recent exposition of this point is, I believe, David Fate Norton, Hume and His Scottish Critics, *in* McGill Hume Studies, ed. Norton et al., 309 (San Diego, Cal.: Austin Hill Press, 1976). For a contrasting interpretation of Reid's truth claims, see Paul Vernier, Thomas Reid on the Foundations of Knowledge and His Answer to Skepticism, *in* Stephen F. Barker & Tom L. Beauchamp, eds., Thomas Reid: Critical Interpretations 14 (Philadelphia: Philosophical Monographs, 1976) ("Barker & Beauchamp on Thomas Reid").

57. See Beattie's own advertisement to the 1790 edition, published in Edinburgh, at p. iii of the facsimile reproduction, intro. James R. Irvine (Delmar, N.Y.: Scholars' Facsimiles & Reprints, 1976).

58. Benjamin Rush, in a letter of March 19, 1789, *in* 1 L.H. Butterfield, ed., Letters of Benjamin Rush 507 (2 vols.; Princeton, N.J.: Princeton University Press, 1951) ("Butterfield, Rush Letters"). Nevertheless, it would seem that Rush's characterization was grounded, at most and at best, on a "sublimation of politics," for which Professor George Dargo provides the most compelling concise explanation of which I am aware; Dargo, Parties and the Transformation of the Constitutional Idea in Revolutionary Pennsylvania, *in* Patricia U. Bonomi, ed., Party and Political Opposition in Revolutionary America 98, esp. at 111 (Tarrytown, N.Y.: Sleepy Hollow Press, 1980). On Wilson's "sublimation" of politics, see my text *infra* at sec. VII.

Such American appropriation of Scottish ideas and exemplars, from the mid-18th century onward, is a feature of early American republican culture that is now familiar—indeed, sometimes overemphasized.[60] But even *if* so historically astute a philosopher as Alasdair MacIntyre may be claiming too much for the glory of Enlightened Scotland in surmising that there remain unanswered some important general questions of "causation" about this Scottish "influence" on early American "social, moral, and political change,"[61] nevertheless, James Wilson's overt and elaborate appropriation of the authority of Reidian moral science to early American Federalism was a project so important to Wilson himself and so emblematic of Wilson's political culture that students of the Founding cannot afford to overlook it. Neither our historical understanding of the Founding[62] nor our historically informed constitutional theory[63] is so comprehensive or authoritative as to permit us to neglect the example of an important framer like Wilson, who, in his appeals to "moral science," reached for the fullest comprehensiveness and addressed questions about authority that he thought were even more fundamental than the Founding itself.

III. "MORAL ABSTRACTION" AS A PATENT METAPHOR

". . . a principle of good will as well as of knowledge."

59. See, e.g., Andrew Hook, Scotland and America: A Study of Cultural Relations, 1750-1835, ch. 6, esp. at 79 (Glasgow: Blackie, 1975). Cf. Henry F. May, The Enlightenment in America at, e.g., 209, 343ff. (New York: Oxford University Press, 1976). And see Rush's Aug. 1, 1786 letter to Beattie, informing him that Rush had just procured Beattie's admission to the American Philosophical Society, and assuring Beattie that, "The American Revolution, which divided the British Empire, made no breach in the republic of letters." 1 Butterfield, Rush Letters 394 (cited in note 58).

60. In addition to the works by Hook and May cited in note 59, and to Donald H. Meyer, The Democratic Enlightenment (New York: G.P. Putnam's Sons, Capricorn Books, 1976), see D.H. Meyer, The Instructed Conscience: The Shaping of the American National Ethic (Philadelphia: University of Pennsylvania Press, 1972); Garry Wills, Inventing America: Jefferson's Declaration of Independence (Garden City, N.Y.: Doubleday & Co., 1978); Wills, Explaining America: *The Federalist* (Garden City, N.Y.: Doubleday & Co., 1981). For what I believe remains the most cogently argued warning against overemphasizing this Scottish influence on the American Founding, see Ronald Hamowy, Jefferson and the Scottish Enlightenment: A Critique of Garry Wills's *Inventing America: Jefferson's Declaration of Independence*, 36 Wm. & Mary Q., 3d ser., 503 (1979).

61. Alasdair MacIntyre, After Virtue: A Study in Moral Theory 272 (2d ed. Notre Dame, Ind.: University of Notre Dame Press, 1984) (in "Postscript to the Second Edition").

62. See, ➞ James H. Hutson, The Creation of the Constitution: Scholarship at a Standstill, 12 Revs. Am. His. 463 (1984); cf. Hutson, Riddles of the Federal Constitutional Convention, 44 Wm. & Mary Q., 3d ser., 411 (1987).

63. See, e.g., Frank I. Michelman, The Supreme Court, 1985 Term—Forward: Traces of Self Government, 100 Harv. L. Rev. 4 (1986); cf. Michelman, The Place of Republicanism in American Constitutional Law (paper presented at Annual Meeting, Association of American Law Schools, Los Angeles, Jan. 1987; manuscript kindly supplied by the author). See ➞ William E. Nelson, Reason and Compromise in the Establishment of the Federal Constitution, 1787–1801, 44 Wm. & Mary Q., 3d ser., 458, esp. 483-84 (1987).

—Wilson, in his *Lectures on Law*[64]

In terms of Wilson's own approach, and in light of prevalent interests among intellectual historians and constitutional theorists today,[65] the most conspicuous feature of Wilson's attempt to ground Federalist arguments in moral science is his appeal to the epistemological authority of language. According to the "philosophy of mind" taught by Reid, whom Wilson thought no less a paragon in that field than Francis Bacon had proved to be in the "philosophy of matter,"[66] language can serve as more than the pleasing and necessary medium of human knowledge.[67] Sometimes language can serve as evidence of, and even a way to, knowledge. Indeed, language by itself is sometimes capable of serving us as an authentic *proxy* for knowledge.

The Common Sense case for ascribing such capability to language rested primarily on arguments derived from a conception of language as unmediated mental experience. Or, as Wilson politely reformulated this tenet of the Common Sense philosophers, "language is the picture of human thoughts; and, from this faithful picture, we may draw certain conclusions concerning the original."[68] Implicating without confronting the question how even the most accurate pictures of our thoughts can ever establish anything "conclusive" about them, Wilson's affirmation here about the *fidelity* of human language to the human mind was, in and of itself, a point of the greatest importance to him. Moreover, Wilson's affirmation departed from some of Madison's and Hume's statements on this matter.

For example, Madison, in his skeptical digression in *Federalist* No. 37, suggests he is resigned not only that the "objects" men seek to understand are often intractably indistinct, and that the imperfect human faculties often prove too weak to penetrate "obscurity." He is also resigned that language, as the medium necessary for men's expressing their ideas to one another, is "unavoidably inaccurate" and often "inadequate."[69] Still, here, even in Madison's scrupulous prudence and his ostensible tendency to resignation, there is nothing that necessarily contradicts Wilson's own Common Sense

64. 1 McCloskey, Works 162.

65. See, e.g., David A. Hollinger's observations on the current "linguistic imperialism" in his field, in American Intellectual History: Some Issues for the 1980s, in the collection of Hollinger's essays In the America Province: Studies in the History and Historiography of Ideas 176 (Bloomington: Indiana University Press, 1985). On the "linguistic turn" in intellectual history more generally, see Donald R. Kelley, Horizons of Intellectual History: Retrospect, Circumspect, Prospect, 48 J. Hist. Ideas 143 (1987). For samples of the linguistic turn in contemporary American constitutional theory, see the relevant articles in symposia like 58 So. Cal. L. Rev. 277 (1985) and 60 Tex. L. Rev. 373 (1982).

66. See Wilson's opinion in the case of Chisholm v. Georgia, 2 Dallas 419, 453–54 (1793). Cf. 1 McCloskey, Works 216–17, 193–94 (cited in note 8).

67. See, e.g., 1 McCloskey, Works 231, 237–38.

68. *Id.* at 135. Cf. I.A. Richards on the representative 18th-century Common Sense literary criticism of Kames, in Richards, The Philosophy of Rhetoric 16 ff. & 98 ff. (New York: Oxford University Press, 1936). On the important connection between Kames and Reidian Common Sense, see Conrad, Citizenship chs. 5–6 & *passim* (cited in note 55).

69. Federalist No. 37, at 236–37 (J. Cooke ed. 1961).

views. With Hume's stated position, however, Wilson felt that he—and Common Sense—were at loggerheads.

What elicited from Wilson his strongest affirmations about the capability of language in discovering and enlarging men's knowledge of "true principles," especially knowledge of moral truth, was Hume's perceived challenge to what is now sometimes called the "constitutive function" of language. It is, so Wilson affirmed, "in consequence of language" that "we are united by political societies, government, and laws."[70] And it was just this power of language to discover and represent to us general reality, and even to create and augment human society, that Hume appeared to deny. Indeed, Hume's perceived attack on language occasionally took on the air of an attack against not just human knowledge but all of culture and society—or at least what was "best" in them, in the moral sense of "best."

When Hume apparently sought to discredit, even while disavowing any intention to "depreciate," "[a]ll polite letters" as "nothing but pictures of human life in various attitudes and situations," it was what Hume considered to be the necessary particularity of the "pictures," or images, of polite letters that bore the brunt of his critique.[71] As a modern student of Hume has phrased it, Hume took the position that "the meaning of no general term can be an image."[72] And if this was what Hume meant to argue, or was any part of what contemporary readers might have imputed to Hume's endeavors at the "profound" species of philosophy, then it should not be difficult to see how reading, much less *mis*reading, Hume could have provoked a defensive campaign on behalf of the social, moral, and epistemological authority of language.[73]

For example, when the Common Sense philosophers read the *Treatise of Human Nature* they encountered Hume's charge that "by profession" poets are "liars" who "always endeavour to give an air of truth to their fictions."[74] How Hume justified this seeming affront to poetry, with "poetry" here taken to stand for any and all language for which claims of intrinsic truth are made, involved nothing less than the entire argument of the *Treatise*. And it was for the acknowledged purpose of refuting Hume's argument, comprising the historic consummation of the false "idealism" of deluded geniuses from Plato to

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70. 1 McCloskey, Works 231.

71. An Enquiry Concerning Human Understanding, *in* Nidditch, ed., at 9, 10 (cited in note 49).

72. Páll S. Árdal, Convention and Value, *in* Morice on Hume 51, 56 (cited in note 35).

73. For an example of a similar reaction to Hume from a modern scholar particularly concerned with questions of language, culture, and epistemology, see the much praised albeit controversial work of Owen Barfield, e.g., his Poetic Diction: A Study in Meaning (London, 1928), esp. Preface to the Second Edition (2d ed. New York: McGraw-Hill Book Co., 1952, 1964). Nevertheless, contrast the readings of Hume by some leading modern scholars, e.g., Norman Kemp Smith, The Philosophy of David Hume: A Critical Study of Its Origins and Central Doctrines (1941; reprint ed. New York: Garland Publishing Co., 1983); and Norton on Hume (cited in note 51).

74. A Treatise of Human Nature, bk. I, pt. III, sec. X, ed. L.A. Selby-Bigge (1888); 2d ed., ed. P.H. Nidditch, at 121 (Oxford: Clarendon Press, 1978).

Locke and Berkeley,[75] that Thomas Reid launched his campaign to restore Common Sense to its rightful place of "sovereign authority" in philosophy.

Notwithstanding the current modest revival of interest in Reid's contributions to philosophy,[76] there is little prospect today of rehabilitating Reid to preeminence as the philosopher who has engaged the argument of Hume's *Treatise* most thoroughly and refuted it most irrefutably. But in the period of the autumnal, pre-Kantian Enlightenment, Reid was in fact often singled out as the philosopher who had discovered how best to "cut up" Hume's metaphysics "by the roots." So said George III of what Dr. Beattie had accomplished in the *Essay on Truth*, Beattie's best-selling polemic written to retail (albeit at an enormous intellectual discount) the gist of Reid's philosophy to the polite reading public. Now itself wholly dismissed for its empty pretense to philosophical argument, Beattie's *Essay* in his own day won him considerable renown, a pension from the King, and a sitting with Sir Joshua Reynolds that resulted in an allegorical portrait of Beattie, entitled "The Triumph Truth," which shows the good doctor clutching his *Essay* while an angel cows three dark, primitive figures who resemble Hume, Gibbon, and Voltaire.[77]

In the context of the Atlantic culture of the day, there was, then, nothing eccentric about Wilson's apprising his law students in 1790 that Thomas Reid's 1764 *Inquiry into the Human Mind* had marked the beginning of a new, constructive epoch of reaffirmation in philosophy. Reid's ideas had succeeded in clearing away "the rubbish, which, during the long course of two thousand years, had concealed the foundations of philosophy."[78] But Reid and his school had, by 1790, accomplished even more: In disposing of the "idealist" tradition in philosophy, which had for so long contended that knowledge of the human mind is beyond the reach of immediate human understanding,[79] the Common Sense school had reconceived the entire enterprise of philosophy, and had already met "with the most encouraging success" in accumulating discoveries about human nature that were as useful as they were conclusive.[80]

Wilson's reformulation of a Common Sense for America was, nevertheless, peculiarly his own in the degree of its exhilaration at the novelty and the promise of the Common Sense approach in moral science. When Wilson

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75. 1 McCloskey, Works 213–14.

76. For an overview, see Keith Lehrer, Reid's Influence on Contemporary American and British Philosophy, *in* Barker & Beauchamp on Thomas Reid 1–7 (cited in noted 56). Cf. Louise Marcil-Lacoste, Claude Buffier and Thomas Reid: Two Common-Sense Philosophers (Kingston & Montreal: McGill-Queen's University Press, 1982) ("Marcil-Lacoste"). See also the fledgling journal *Reid Studies*, edited by Melvin T. Dalgarno and published by the University of Aberdeen; and the multivolume series of publications of Reid's hitherto unpublished manuscripts, under the general editorship of Charles Stewart-Robertson.

77. See James Beattie's London Diary, 1773, ed. Ralph S. Walker, at 42 and *passim* (Aberdeen: University of Aberdeen, 1946).

78. 1 McCloskey, Works 216 (cited in note 8).

79. E.g., *id.* at 213–15.

80. *Id.* at 217; cf. at 194 (Reid an "experienced judge of human nature").

compared Reid to Bacon,[81] the point was not simply to acknowledge Reid's greatness. Wilson meant to indicate specifically that Reid, like Bacon, had devised a plan of scientific inquiry so comprehensive within its sphere that its prosecution might happily realize a history of unlimited progress—even while the outlines of the plan and its clarion empiricism were continually rejustified by the success of each new discovery. Bacon's perfect genius for organizing all inquiry in the domain of the physical sciences had been vindicated in just this way; and Wilson envisioned a comparable glory for Reid's comprehensive restructuring of the scientific investigation of the human mind. In fact, by 1790 Wilson could point to an entire field of recent developments in the science of the mind that seemed to sustain this comparison with Bacon's achievement, but that promised for Reid a repute even higher than Bacon's, because these developments promised improvements not merely in man's material circumstances but in his moral life.

It was, above all, in the investigation into "the principles of society" that Reid and Common Sense had made revolutionary progress.[82] For Reid and his school had, in good Baconian fashion, established an entirely new field of inquiry in social philosophy, namely, the scientific inquiry into the "social," as distinguished from the "solitary," operations of the individual human mind.[83] To Wilson, the mere recognition of this field as a endeavor to examine an *irreducible*[84] constituent part of human nature was as momentous a revolution in philosophy as the American War for Independence had been in politics.[85]

This was not to say, however, that this "profounder" revolution, a revolution in men's knowledge of themselves, was unrelated to politics. To the contrary, "the spirit of patriotism" had done much, Wilson said, to foster this *new science* of the "social operations" of the mind.[86] And it was chiefly Wilson's view of the reciprocally fortifying relationship between the new social psychology and the new American politics of patriotism that led him, as a lawyer and a politician—even if not a true philosopher—to hazard a contribution to the fast developing "social science"[87] of the day. There might seem to have been reassurance, as well, in the fact that his contribution was, for the

81. Cf. my text at note 66 *supra*. On Reid's Baconianism in general, see Marcil-Lacoste at 131–40 (cited in note 76). On the avowed Baconianism of the rhetoric of Reid's moral science in particular, → Charles Stewart-Robertson, The Pneumatics and the Georgics of the Scottish Mind, 20 Eighteenth-Century Stud. 296 (1987).

82. 1 McCloskey, Works 229.

83. *Id.* at 230ff. At this point in his lectures, Wilson makes an interesting reference to his earlier express reservations about relying for knowledge on "definitions." Cf. my text *supra* at note 17.

84. 1 McCloskey, Works 230; cf. at 200, 228–29 (Wilson *contra* Hobbist reduction of the social passions into "selfishness" and "self-love"). Cf. *infra* note 112.

85. Cf. Wilson's remark that Reid's philosophy would open "the most enrapturing prospects." 1 McCloskey, Works 201.

86. *Id.* at 229.

87. See, e.g., Gladys Bryson, Man and Society: The Scottish Inquiry of the Eighteenth Century (Princeton, N.J.: Princeton University Press, 1945); Ronald L. Meek, Social Science and the Ignoble Savage (Cambridge: Cambridge University Press, 1976).

most part, only a matter of terminology. And yet Wilson thought terminology so important in itself that his contribution might nevertheless guide Americans as they were beginning to try to understand themselves as "a People" and appreciate what the Founding of the 1780s already meant and ultimately could mean.

Expressly relying on analogy, and pursuing what he called "a figurative extension" of language in order to arrive at a new metaphor, Wilson coined the term "moral abstraction" to distinguish a very important social operation of the mind he thought had gone unappreciated because it had never had a name.[88] That new advances in knowledge require new terms was, for Wilson, one of the most important lessons taught by Reid.[89] Thus, even in reaching for a new term, Wilson was not departing from Reid's Common Sense; he was putting it into practice. And in the familiar Common Sense idiom that Wilson used to explain to his law students what he meant by "moral abstraction" (for example, in characterizing moral abstraction as an "active" moral "power," Wilson was borrowing the signal terms from the titles of two of Reid's major works),[90] Wilson once again endorsed Common Sense moral science even as he opened the way to seeing something new about its political significance.

What tempted Wilson to his metaphor, and what justified it to him so completely, was the fecund analogy that he thought already securely established by the Common Sense school, between men's intellectual faculties and their moral faculties, and between both these classes of faculties and the faculties of sensory perception.[91] Moreover, among the Common Sense theorists the impetus toward synthesis and unity in the science of the mind was so strong[92] that Wilson was quite faithful to Common Sense in presuming that the greater imprudence lay not in extending such analogies too far but in failing to recognize how much the various faculties of the mind necessarily do partake of one another.[93] Wilson was thus drawing on the accrued authority of the Common Sense school when he introduced to his law students his coinage "moral abstraction" as a patent metaphor evincing the fundamental Common Sense analogy between men's intellectual powers and their moral powers.[94]

"Abstraction," said Wilson, is a general power of the mind that had thus far been associated exclusively with the operations of the intellect. Philoso-

88. 1 McCloskey, Works 161ff. (cited in note 8).

89. Cf. Chisholm v. Georgia, 2 Dallas 419, 454 (1793).

90. 1 McCloskey, Works 162. The titles of Reid's two last, and longest, works are Essays on the Intellectual Powers of Man (1785) and Essays on the Active Powers of the Human Mind (1788).

91. See 1 McCloskey, Works 202ff. (on the relationship between external and internal "sense").

92. E.g., *id.* at 201.

93. Cf. *id.* at 199 (general concurrence of the will and the understanding). Cf. discussion of this passage in Conrad, Polite Foundation 381ff. (cited in note 12).

94. 1 McCloskey, Works 161–62.

phers had long taught that our power of "intellectual abstraction" enables us to perceive similarities among the individual objects of nature and, by the "progress" of this same power, to classify these objects and "refer them to a higher genus, till we arrive at *being*, the highest genus of all."[95] Equally real and more important, but as yet quite unappreciated, however, was men's power of "moral abstraction."

This power of moral abstraction is, said Wilson, "a principle of good will as well as of *knowledge*."[96] And it is significant that Wilson in so saying drew no distinction, formal or otherwise, between "power" and "principle." It was his use of these terms interchangeably that (at least as a matter of language) justified his moving immediately to a conclusion that this power is "susceptible" of unlimited "generalization," or "extension," in the objects it "embraces," namely, other individuals and groups of persons.[97] But Wilson's underlying justification for moving directly to this conclusion lay in more than semantics; it lay in what Thomas Reid's Common Sense school had recently "proved" about the similarity of the operations of our intellectual and moral powers, and about the substantial mutual participation of both intellection and feeling in every act of the mind. This is the point of Wilson's insistence that moral abstraction is more than a merely affective inclination to "benevolence and sociability," more than the commonly recognized, indeed, universally experienced, but supposedly unthinking impulse of fellow feeling.[98]

In Wilson's own quotations from some earlier insightful authorities who had glimpsed what he claimed to be the first student of human nature not to discover but to name, it is evident that by coining the new term "moral abstraction" Wilson intended to advocate a higher regard for the capability of the human *imagination*. When the imagination is properly informed and constrained—and so the imagination is by its nature inclined to be when it is cultivated in the setting of civil society—then it is fully capable of *knowledge*. For, as the cultured French politician Jacques Necker had seen, imagination of this sort is in fact a "thinking faculty" of the mind.[99] But some earnest philosophers had "doubted or denied" this insight. Even the enlightened English natural lawyer Thomas Rutherforth had asserted that the morally engaged imagination is "merely notional," in that the "social union" the mind posits among men is a "connexion" that "is only made by the mind for its own convenience."[100] Thus, what Reidian Common Sense had accomplished was to complete and to vindicate earlier tentative and controverted insights (such as Cicero's and Necker's) about the "real" existence and the "power" of the

95. *Id.* at 162.
96. *Id.* (emphasis added).
97. E.g., *id.* at 163–64.
98. → Norman S. Fiering, Irresistible Compassion: An Aspect of Eighteenth-Century Sympathy and Humanitarianism, 37 J. Hist. Ideas 195 (1976).
99. 1 McCloskey, Works 162. Cf. bibliographical glossary in 2 McCloskey at 854.
100. 1 McCloskey, Works 163; cf. 2 McCloskey 855. Also cf. Wilson on "moral perception" as an operation of "the understanding," e.g., at 1 McCloskey 233.

moral imagination as a thinking faculty. The most excellent moral acts of the imagination, acts of moral abstraction, should now be understood to import "knowledge": What we only imagine can be and sometimes is "the truth."

Such was the argument captured in Wilson's analogizing, synthesizing metaphor "moral abstraction." It was an argument that drew at every point on Common Sense polemics against a *perceived* attempt to degrade the human imagination by portraying it as a faculty incapable of ascertaining knowledge or truth.[101] To be sure, Wilson's argument reflected widespread aesthetic theories and assumptions in 18th-century Atlantic culture that had for some time been encouraging an increased interest in the "varieties" and the "powers" of the imagination.[102] Nevertheless, Wilson did not couch his argument strictly or even chiefly in the terms of yet another enlightened analysis of "the faculty of imagination." Instead, he relied on his metaphor to carry most of the burden of his argument. And in this reliance he considered that he was not taking recourse to mere rhetoric; rather, he was appealing more directly to the epistemological authority of the imagination than any reasoned argument ever could. What might have otherwise seemed the defect of circular argument in his reliance on one novel metaphor to establish the truth claims for metaphor in general was thus, in his view, amply justified on the strength of the most compelling and reassuring authority of all in moral, or any other, science: experience.

IV. IMAGINATION AS "EXPERIENCE" IN CIVIL SOCIETY

> " 'The good experienced man,' says Aristotle, 'is the last measure of all things.' "
>
> —Wilson, in his *Lectures on Law*[103]

How it can be that a metaphor imports the authority of "experience" is

101. Cf. Robert Eberwein, James Beattie and David Hume on the Imagination and Truth, 12 Tex. Stud. Literature & Language 595 (1971). For an account of Hume's conception of the imagination that sets it in the broad context of 18th-century literary theory generally, see James Engell, The Creative Imagination: Enlightenment to Romanticism 52 & *passim* (Cambridge, Mass.: Harvard University Press, 1981). For an especially pertinent analysis by a leading historian of philosophy that focuses on "the imagination" in arguing that "[t]he whole of Hume's constructive philosophy of human nature was unperceived by Reid and Beattie—and so by the later critics who took their cue from Reid and Beattie," see D.D. Raphael, "The true old Humean philosophy" and Its Influence on Adam Smith, *in* Morice on Hume at 23, 25 (cited in note 35).

102. As Professor Pocock has recently suggested, this increased interest in the imagination is a matter to which historians of literature and of philosophy have attended so carefully for so long now that it is all the more remarkable that historians of political thought have thus far done so little to come to terms with its significance. Pocock, Virtue 66–67 & n.46 (cited in note 12).

103. 1 McCloskey, Works 139 (cited in note 8); Wilson here cites Francis Hutcheson, A System of Moral Philosophy (cf. bibliographical glossary in 2 McCloskey at 852). Cf. *infra* note 111.

only hinted at in the one key passage—and a notable passage it is—[104] in Wilson's law lectures where he pauses expressly to affirm the "necessity" and "advantage" of metaphor in moral science. Although in this isolated passage Wilson falls short of formulating anything that amounts to a general theory of metaphor, he does incorporate into the passage, if only elliptically, enough of his case for the *empirical* authority of metaphor that the passage merits quotation in full:

> In the philosophy of the human mind, it is impossible altogether to avoid metaphorical expressions. Our first and most familiar notions are suggested by material objects; and we cannot speak intelligibly of those that are immaterial, without continual allusions to matter and the qualities of matter.
>
> Besides, in teaching moral science, the use of metaphors is not only necessary, but, if prudent, and honest, and guarded, it is highly advantageous. Nature has endowed us with the faculty of imagination, that we may be enabled to throw warming as well as enlightening rays upon truth—to embellish, to recommend, and to enforce it. Truth may, indeed, by reasoning, be rendered evident to the understanding; but it cannot reach the heart, unless by means of the imagination. To the imagination metaphors are addressed.[105]

Elliptical as Wilson is in these remarks, nevertheless, he sounds quite clearly a number of his favorite Common Sense themes: for example, the importance of the relationship between the *physical* senses and all the other operations of the mind; and also the limited capacity of the faculty of reason to convey all that men, nevertheless, do *know*. What is missing here, or rather, what Wilson barely intimates, is his view of the necessity of metaphor and imagination not merely in our conveying *to others* but in our acquiring *for ourselves*, that is, our "conceiving" of, some kinds of knowledge. It is this primary service performed by metaphor and imagination in helping us not merely to share but, in the first instance, to *acquire* knowledge that, in Wilson's view, makes us so dependent on metaphor and imagination for progress in moral science. And yet this apparent distinction between *acquiring* and *sharing* moral knowledge was, paradoxically, of significance to Wilson mostly because he considered it a distinction that ultimately should not and could not be maintained. For this reason he was more interested in and reliant upon metaphor itself as an actual, social phenomenon of language than he was concerned with imagination as a "metaphysical," even though very real, faculty of the mind.

104. I venture this remark at the encouragement of Professor Aileen Ward, who has been kind enough to share with me her reaction to the passage in question: that it was quite unusual at that time (the early 1790s) for a writer, at least an Anglophone writer, to wax as expressly self-conscious as Wilson does here about the moral purpose of metaphor. For Ward's own wide-ranging study of the theory of metaphor, see her The Unfurling of Entity: Metaphor in Poetic Theory (New York: Garland Publishing Co., 1987).

105. 1 McCloskey, Works 101; cf. 2 McCloskey, Works 778, for another instance of Wilson's articulately self-conscious use of metaphor, in his 1788 July Fourth Oration.

Again following Reid, Wilson emphasized that knowledge is available to men not just through observation but also through reflection, because reflection is an "experience" as authentic to the human mind as is any other. Reid did not stint in crediting Descartes with the recovery of this principle to philosophy; although Reid did claim that, by effectively transcending Cartesian dualism,[106] he had accomplished something new in reconciling this Cartesian insight with the outward-looking perspective of the British empirical tradition.[107] In any event, Wilson thought himself on the firmest common ground, occupied both by Common Sense and every eminent skeptic including the Pyrrhonist Hume, in taking "experience" as the most authoritative guide in all aspects of philosophy and life.[108]

In Wilson's day, and especially in the context of the disputes in philosophy and politics that most engaged him, "experience" was a shibboleth, like—and problematically related to—"science," that admitted of variable meanings.[109] How did Wilson's own conception of scientifically authoritative experience come to include and even exalt the phenomena of figurative language? And why did he become especially concerned with metaphor as both a social manifestation and a reflexive inculcation of what he called "moral abstraction"?

Merely to pose such questions in these terms is to point to an answer, because these questions call attention once again to Wilson's abhorrence of phenomenalism and reductionism. To the threat of these chronic pathologies that jaundiced so much "profound" philosophical inquiry into human nature, Wilson responded by reaffirming the salutary authority of *immediate* experience, even while he also insisted that the directly ascertainable significance of any particular experience is more *general* than itself.

These professedly revisionist contentions, so typical of the Common Sense approach, led Wilson to a very absorptive and naive phenomenology. After all, a defensive resolve to apply phenomenological interpretations indiscriminately was, as the name of the Common Sense school indicates, much of what the school undertook in assuming the term "sense" for their cause: They appealed to the "felt," or "sensed," reality of "phenomena" of the mind in their explanation of the nature of "reflection" as well as "observation," "intuitive knowledge" as well as "discursive knowledge," and impalpable so-

106. Cf. 1 McCloskey, Works 201, 205, 223–25, 371–72; cf. at 213. Cf. Henry Guerlac, Newton's Changing Reputation in the Eighteenth Century, *in* Carl Becker's Heavenly City Revisited, ed. Raymond O. Rockwood, at 3 (Hamden, Conn.: Archon Books, 1968); Charles C. Gillispie, The Edge of Objectivity: An Essay in the History of Scientific Ideas (Princeton, N.J.: Princeton University Press, 1960).

107. Cf. Morton White, The Philosophy of the American Revolution 157-60 (New York: Oxford University Press, 1978).

108. E.g., 1 McCloskey, Works 183. Cf. Donald W. Livingston, Hume's Philosophy of Common Life 11–15 & *passim* (Hume on the authority of "experience") (cited in note 48).

109. An especially concise and balanced discussion of this familiar matter is Michael Lienesch, Interpreting Experience: History, Philosophy, and Science in the American Constitutional Debates, 11 Am. Pol. Q. 379 (1983).

cial institutions as well as the most palpable and simple episodes in the private mental experience of individuals in everyday life.

Indeed, there was no more frequent motif in Common Sense moral science than the reassertion of the absolute truthfulness and the practical necessity of the internal "sense" that "everyone" has of human society as a "real," external phenomenon. And, in Wilson's case, it was his assumptions and arguments about the "real" nature of American society[110] that provided him with a naively phenomenological justification for so reconceptualizing "experience" that this shibboleth of modern science could compass and establish the empirical authority of metaphor.

Just as Scottish Common Sense had revolutionized moral science by pioneering scientific inquiry into the social operations of the mind, so American political experience had, by the late 1780s, afforded a historic confirmation of what Common Sense had already disclosed, and what it promised, about these social operations. In Wilson's view, Americans had begun to realize, for the first time in history, the politics of a "civil society." And Wilson's controlling notion of civil society was largely what both inspired and required him to reconceive the meaning of "experience" in a way that put metaphor at the center of moral science: Wilson thought civil society to be an indispensable setting for, and object of, just the sorts of imaginative acts of moral abstraction that give metaphor much of its moral significance.

In trying to convey what he meant by "civil society" as a general phenomenon—and why it is an important source, means, and end of the republican culture he envisioned for America—Wilson occasionally took pains to specify what civil society is *not*.

In the first place, civil society is not, and must not be confounded with, "natural society." Wilson did not deny that the circumstances of social association we call "natural society" can exist and have existed among mankind; but, in all candor, he confessed that he thought natural society, at least as an object of inquiry in moral science, neither an attractive nor even an interesting phenomenon to contemplate. With Aristotle, he frankly preferred to predicate his moral science on human nature as it is found in an "improved" condition.[111] And although Wilson did not mean to detract at all from the certain knowledge attested by everyone (except for a few disingenuous or deluded Hobbists[112]) that sociability is intrinsic to human nature,[113] Wilson did deny, without the slightest trace of irony, that the "rude" circumstances commonly designated "natural society" are, or could ever have been, "natural" to

110. → Dennison, 39 Rev. Pol. 157, esp. at 190–91 (cited in note 32).

111. Cf. 1 McCloskey, Works 139; cf. at 87, 164–65, 200.

112. See esp. *id.* at 228–29. Whether Wilson's reading of Hobbes was the correct reading or even *a* defensible reading is a question that I do not mean to address. For a recent interpretation that finds in the Leviathan something quite different from the "asocial individualism" often found there, by Wilson's contemporaries and ours, see Ron Replogle, Personality & Society in Hobbes's *Leviathan*, 19 Polity 570 (1987). Cf. *supra* note 84.

113. E.g., 1 McCloskey, Works, esp. at 227, 233–36.

man.[114] To Wilson this was a conclusion so abundantly indicated by a variety of "moral" and "physical" "causes" that to belabor the point would only lead him into the reductionism and absurdly false analytical logic of Hume and his ilk. Faithful to the methods of Common Sense phenomenology, Wilson chose to establish the affinity of human nature for "civil," rather than "natural," society by describing, not by trying to define, what he meant by the term "civil society."[115]

Nevertheless, if there was to Wilson any single distinctive feature of civil society that seemed to stand out as its hallmark, it was that in civil society the bonds among men are secured *by laws*.[116] For this apparently legalistic view of civil society Wilson cited Cicero as his principal authority.[117] And although in Wilson's day there was hardly anything exceptional in an American lawyer's calling upon the authority of this greatest lawyer of republican Rome,[118] Cicero served Wilson especially well as a symbol with which to mitigate the importance of legalism, even as Wilson dwelt on the importance in civil society of the principle of community through law.

In fact, Wilson's reservations about unmitigated legalism are implicit throughout the documentary record of his mature constitutional theory. Illustrations of this point range from countless particular remarks to the most salient general features of his approach, not the least of these general features being, as I have already noted, the premium Wilson placed on the authority of moral, as distinguished from political or legal, science.[119] As for his particular remarks bearing on this point, a striking example is Wilson's statement at the Philadelphia Convention that he did not want to require officers of the new national government to take oaths to support the government, because he thought that, "A good Govt. did not need [the security of legal oaths]. . . . and a bad one could not or ought not to be supported"—not even by its own elected officials![120]

But it is in emphasizing his pointedly ambiguous "Ciceronian" concep-

114. Cf. *id.*, esp. at 130.

115. Cf. *id.* at 161, 211, 231, 280.

116. E.g., *id.* at 238–39, 280; Jensen, ed., at 356, 358–59 (cited in note 8); cf. *id.* at 344–45, 346.

117. 1 McCloskey, Works 239.

118. Among the many relevant excellent studies, two are of special interest he → Stephen Botein, Cicero as Role Model for Early American Lawyers: A Case Study in Classical "Influence," 73 Classical J. 313 (1978); and even closer to my own emphasis, Robert A. Ferguson, Law and Letters in American Culture 74 (Cambridge, Mass.: Harvard University Press, 1984) (on the Ciceronian ideal as calling for "professional knowledge, where 'profession' meant 'the search after truth'. . . . moral duty . . . . an intrinsic love of learning and literature").

119. Cf. Wilson's resistance to "defining," or "conceiving" of, law as a rule at all. He favored, instead, a conception of "law" *as relation* rather than as "rule." See 1 McCloskey, Works 100–101 (but see at 63); see also at 123, for Wilson's appreciation of this idea of law as a "Roman" ideal. Cf. Arendt, On Revolution 187ff. (cited in note 26).

120. 2 Farrand, Records 87 (cited in note 3). For a biographical sidelight that may be important in understanding Wilson's position here, see Charles Page Smith, James Wilson: Founding Father, 1742–1798, at 114–15 (Chapel Hill: University of North Carolina Press, 1956) ("Smith on James Wilson").

tion of "civil society" that Wilson leaves the least doubt about his view of the importance of qualifying and moderating the nonetheless essential authority of law in a republic. And Wilson makes this point most clearly by specifying, again, what civil society is *not*.

For, as important as it was to Wilson to distinguish "civil society" from "natural society," he thought it even more important to emphasize that "civil society" must also be distinguished from "civil government." A disregard for this latter distinction is a fundamental error in constitutional theory that he thought had been all too common (even in America[121])—and always subversive of human "happiness" and "liberty." In Wilson's hierarchy of authority, as in Locke's, civil government ranked *below* civil society. Indeed, Wilson identified "the state" itself not with any institution of government at all, but thoroughly and exclusively with "civil society."[122] "Let government," he said, "—let even the constitution be, as they ought to be, the handmaids . . . of the state."[123] And in explaining why republicanism in principle permits no real distinction between "the state" and "civil society," or between either of these two institutions and a third, namely "the People" themselves, Wilson absorbed all three into a description that he applied to each.

What lends coherence to this description, which Wilson often repeated with little variation, is the predominance throughout of an idea of figurative personality: In a republic, it can and should be said that "the state," "civil society," and "the People" themselves are variant terms for precisely the same thing; each of these terms stands for the "artificial," "moral person" comprising "a complete body of free natural persons, united together for their common benefit" and properly considered "as having an understanding and a will . . . peculiar to itself . . ., as deliberating, and resolving, and acting."[124]

V. POLITICS AS CULTIVATION

> "Again he could not agree that property was the sole or primary object of Governt. & Society. The cultivation & improvement of the human mind was the most noble object."
>
> —Madison's *Notes* of Wilson's July 13 remarks at the Federal Convention[125]

The idea of figurative personality in Wilson's description, although far from unique to the Ciceronian conception of constitutional republicanism,

121. Jensen, ed., at 348 (cited in note 8); cf. at 361–62.

122. E.g., 1 McCloskey, Works 239, 270.

123. *Id.* at 239; cf., e.g., at 109.

124. *Id.* at 239, 270, 401; Chisholm v. Georgia, 2 Dallas 419, 455 (1793). → George Armstrong Kelly, Mortal Man, Immortal Society? Political Metaphors in Eighteenth-Century France, 14 Pol. Theory 5 (1986).

125. 1 Farrand, Records 605 (cited in note 3).

could nevertheless, in Wilson's day, be quite effectively associated with Cicero—not least because of the proverbial eloquence of Cicero's occasional testimonials to the *real* existence of "the People" as the sole embodiment of the "state" in a republic.[126] And yet, as wholeheartedly as Wilson endorsed Cicero's own naive (or perhaps canny) realism in this matter, by the same token, the splendid figures of Cicero's rhetoric fully supported Wilson in emphasizing as well that, real though the people and civil society are as the embodiment of the state in a republic—indeed, they are its most important and only enduring reality—this reality is, by virtue of its *general* nature, ambiguous. For whenever we "contemplate" the general personality that *is* a republic, at the same time "we should never forget, that . . . those, who think and speak and act, are men."[127]

This synthesizing ambiguity was, after all, at the heart of Wilson's political metaphors, just as it had been at the heart of Cicero's. In Wilson's case, as I have argued elsewhere,[128] such ambiguity may have served, among other things, to palliate certain ideological tensions in Wilson's immediate political environment, for example, the tensions between what many scholars take to have been a "republican" orientation and an antithetical "liberal" orientation that were in contentious counterpoise in early American political thought.[129] But in Wilson's program and rhetoric of "comprehensiveness," the capability of metaphor was not limited to expedient political purposes. Or at least no such limitation could, I infer, prudently be acknowledged in so

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126. See, e.g., George H. Sabine, Cicero and the Roman Lawyers, ch. 9 in Sabine's A History of Political Theory, esp. at 171–72 (New York: Henry Holt & Co., 1937).

127. Chisholm v. Georgia, 2 Dallas 419, 455–56 (1793). Cf. William Penn's remark in his preface to the Frame of Government: "Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too"; as quoted by Gerhard Casper, Constitutionalism, *in* 1 Leonard W. Levy et al., Encyclopedia of the American Constitution 473, 476 (4 vols.; New York: Macmillan Publishing Co., 1986).

Moreover, Professor John Christian Laursen tells me that he finds "a parallel" between Wilson's language as quoted here and Kant's formulation of his Sixth Proposition in the Idea for a Universal History with a Cosmopolitan Purpose; see Kant's Political Writings, ed. Hans Reiss, trans. H.B . Nisbet 46–47 (Cambridge: Cambridge University Press, 1970). Yet how different Kant's (and Penn's, and even Madison's) qualms sound from Wilson's optimism! E.g., in the Sixth Proposition, when addressing the challenge of obtaining "for public justice a supreme authority which would itself be just," in light of the "problem" that "*is both the most difficult and the last to be solved by the human race*"—namely "[t]he difficulty . . . [that] man is an animal who needs a master," Kant writes: "But this master will also be an animal who needs a master. Thus while man may try as he will, it is hard to see how he can obtain for public justice a supreme authority which would itself be just, whether he seeks this authority in a single person or in a group of persons selected for this purpose. For each of them will always misuse his freedom if he does not have anyone above him to apply force to him as the laws should require it. Yet the highest authority has to be just *in itself* and yet also be a *man*. This is therefore the most difficult of all tasks, and a perfect solution is impossible. Nothing straight can be constructed from such warped wood as that which man is made of."

128. Conrad, Polite Foundation 366–74 (cited in note 12).

129. See the following pair of companion essays on the current posture of scholarly debate on this topic: Lance Banning, Jeffersonian Ideology Revisited: Liberal and Classical Ideas in the New American Republic, 63 Wm. & Mary Q., 3d ser., at 3 (1986); Joyce Appleby, Republicanism in Old and New Contexts, 63 Wm. & Mary Q., 3d ser., at 20 (1986). → J.G.A. Pocock, Between Gog and Magog: The Republican Thesis and the *Ideologia Americana*, 48 J. Hist. Ideas 325 (1987).

self consciously new a political culture where the language of politics—as typified by aphorisms like Wilson's that "[t]he present is gilded by the prospect of the future"[130]—already betrayed an anticipation of the problem that Americans' liberal republicanism would prove to have "little but its moral promise to sustain it."[131]

More than Madison or any of the other leading Federalists of the time, Wilson projected how this moral promise might be redeemed. His project was nothing less than to improve human nature by engaging it in the processes of its own reform.[132] To other philosophically minded founders—John Adams and Benjamin Rush, for example—these processes of "reformation" were, as they were to Wilson, the "great object" of a truly republican "social science."[133] But with something of the audacity that is, perhaps, peculiar to the *novus homo*,[134] Wilson, not unlike Cicero himself, went further than any of the other leading political actors of his day in attempting to synthesize a "comprehensive," conventionally "philosophical" vision of republicanism as an enterprise in moral reform.

By identifying the engine of republicanism—civil society itself—with moral personality, Wilson could even recur directly to what he took to be the very first among "first principles" in moral philosophy in order to maintain that, in a republic not only are the individual citizens, but civil society as a collective entity is under the duty to cultivate "self-knowledge."[135] It followed from this Delphic, if not strictly Socratic, first principle that it is also incumbent on civil society to cultivate the other attributes of personality, including will, understanding, memory, and imagination—indeed, *every* mental faculty that is "susceptible" of cultivation.

To Wilson what was most encouraging in the American revival of a republicanism of figurative personality was that the new "science" of social psy-

130. 1 McCloskey, Works 146 (cited in note 8). Cf. Wilson's rewriting of Pope's aphorism "Man never *is*, but always *to be* blest" so as to render it both "more consolatory" and "more just": "man ever *is*; *for* always to be blest." *Id.* (The emphasis is Wilson's.)

131. Judith N. Shklar, Ordinary Vices 70 (Cambridge, Mass.: Harvard University, Belknap Press, 1984) ("Shklar, Ordinary Vices").

132. On Publius's aim not to *reform* and *improve* but merely to *harness* and *control* human nature, → Maynard Smith, Reason, Passion and Political Freedom in *The Federalist*, 22 J. Pol. 525 (1960); cf. Howe, 44 Wm. & Mary Q. at 494 (cited in note 6).

133. E.g., John Adams in a letter of 1785: "The social science will never be much improved, until the people unanimously know and consider themselves as the fountain of power"; 9 Charles Francis Adams, ed., The Works of John Adams, Second President of the United States 538, 540 (10 vols.; Boston: Little, Brown & Co., 1850–56, 1854). Cf. David Freeman Hawke, Benjamin Rush: Revolutionary Gadfly 358-80 (Indianapolis: Bobbs-Merrill Co., 1971).

134. Cf. 1 McCloskey, Works 26ff. & 43–48 (editor's Introduction); McCloskey, James Wilson 85–86, 94–95 (cited in note 8); Smith on James Wilson at 159ff. & *passim* (cited in note 120). For more recent scholarship that treats the facts and the political significance of social mobility in the Philadelphia of Wilson's day, see Thomas M. Doerflinger, A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia ch. 6 (251–80) (Chapel Hill: University of North Carolina Press, 1986), esp. at 255 (citing Steven James Broebeck, Changes in the Composition and Structure of Philadelphia Elite Groups, 1756–1790 (Ph.D. diss., University of Pennsylvania, 1972)).

135. E.g., 1 McCloskey, Works 157.

chology had lately begun to uncover so much important knowledge about the real and direct "connexions" between the individual human mind and the public mind. And at the same historic moment that these connections had been scientifically vindicated against the mounting skeptical challenge that culminated in Hume, the American people had also proved, even to acutely skeptical political scientists like William Paley, that the cardinal moral virtue of the individual republican citizen, namely probity, could in fact be so general throughout civil society that probity would suffice as the ground and security of political obligation.[136]

Given the many disappointments that unsettled early American political experience[137]—not least those to which the records of debate at the Philadelphia Convention bear witness—it must be somewhat puzzling now to encounter the nearly uniform sense of *certainty* that typifies Wilson's "philosophical" approach to the problems addressed by Federalist theory. From the late 1780s onward, Wilson's claims to certain "knowledge" remained as frequent and insistent as his claims to comprehensiveness.

Yet it is important to notice that for Wilson knowledge was but another "species of judgment"—although none the less true and certain for that.[138] And though in collapsing the idea of knowledge into the idea of judgment, Wilson avowedly contradicted no less a philosophical authority than Locke in the *Essay Concerning Human Understanding*, Wilson was, however, squarely in accord with the best authority in the culture of his own times. More than any of the other fifty-five framers at Philadelphia, it appears, Wilson took an approach to republican theory that was, in our terms, even more "cultural" in its concerns than it was "philosophical," not to mention "political" or "legalistic." Still, such distinctions as these would have had little if any meaning to Wilson or most of his contemporaries. In Wilson's day the term "philosophical," as it was so often applied to Wilson's republican theory by himself and others, is likely to have meant something quite similar to what we today might mean by the term "cultural"—especially if we mean to connote not only breadth of vision but also a special concern for the importance of the enhancing interrelationships among the perceived elements of social life.

In trying to understand Wilson's distinctiveness it is helpful to notice his special concern for republican "culture" chiefly as that term allows for the ambiguities in what any social phenomenon signifies, at the same time that the term presupposes both some "goodness" in what it designates and—most important of all—a "susceptibility" of improvement. Thus understood, the real meaning of "culture" lies not so much in what it *is* but in the *processes* of

136. *Id.* at 240.

137. For an example of Wilson's own articulation of such disappointments, see his Nov. 24, 1787 speech in Jensen, ed., at 347–48 (cited in note 8); cf. at 360–61.

138. 1 McCloskey, Works 209, 394; cf. at 387–88: a universal opinion is entitled to "the character of a first principle of human knowledge."

cultivation.[139]

As recent scholarship on the American Founding has often noted, the cultivation of republicanism in America was the organizing focus for much of Wilson's founding vision. No single remark by him at the Philadelphia Convention or afterward is as often quoted by modern scholars[140] as Wilson's astonishing assertion at Philadelphia that, orthodox republican theory and the consensus of his fellow delegates notwithstanding, "he could not agree that property was the sole or the primary object of Govern. & Society. The cultivation & improvement of the human mind was the most noble object."[141]

As a noble object of cultivation, the American "publick mind" concerned Wilson no less than did the individual mind of each free and independent citizen. And nowhere did Wilson find better evidence for his belief in the reality and importance of the public mind than in language itself.

Especially in the American republic, where unfulfilled purposes, together with the processes of "improvement," were already "known" to be the vital sustenance of politics, Wilson thought it necessary to appreciate the fundamental limitations, as well as the capabilities, of the several mental faculties. From a Common Sense perspective, prudence required, above all, that the founders not overlook the limits of the capability of human *reason*. To Wilson, at least, it was as axiomatic in any "just" science of government as it was in the fundamental science of morals that, while reason may assist us in choosing the best means to our "ultimate ends," reason can do nothing to assist us

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139. Cf. Frederick M. Kenner, The Chain of Becoming—The Philosophical Tale, the Novel, and a Neglected Realism of the Enlightenment: Swift, Montesquieu, Voltaire, Johnson, and Austin (New York: Columbia University Press, 1983), esp. pt. I, The Chain of Becoming, and ch. 2, The Chain of Being, the Chain of Events, and the Chain of Becoming.

140. See, e.g., Rogers M. Smith, Liberalism and American Constitutional Law 208-9 (Cambridge, Mass.: Harvard University Press, 1985); Epstein, Political Theory 210 n.60 (cited in note 13); Gordon S. Wood, Interests and Disinterestedness in the Making of the Constitution, *in* Beeman et al., Beyond Confederation 69, 83 (cited in note 25).

141. 1 Farrand, Records 605 (cited in note 3). Cf. 2 McCloskey, Works 776 (Fourth of July Oration, 1788) (cited in note 8). And see Thomas A. Horne, Bourgeois Virtue: Property and Moral Philosophy in America, 1750–1800, 4 Hist. Pol. Thought 317, esp. 337ff. (1983). Quite correctly, in my view, Horne at 339 places Wilson in a class of moralists about whom Horne says: "The most important characteristic of the property theory found in these moralists is that property rights are derived from moral duties in such a way as to make such rights subordinate to the public good. Property rights do not define the public good; they cannot stand against it."

The distinctiveness of Wilson's idea of the "most noble" end of government and society, as expressed here, is all the more evident if one accepts Martin Diamond's characterization of "the new political science" of the American founders in general: "the new political science gave a primacy to the efficacy of means rather than to the nobility of ends: The ends of political life were reduced to a commensurability with the human means readily and universally available. In place of the utopian end postulated by the ancients, the forced elevation of human character, the moderns substituted a lowered political end, namely human comfort and security. . . . This removal of the task of character formation from its previously preeminent place on the agenda of politics had an immense consequence for the relationship of ethics and politics in modern regimes." Diamond, Ethics and Politics: The American Way, *in* Robert H. Horwitz, ed., The Moral Foundations of the American Republic 75, 83 (3d ed. Charlottesville: University Press of Virginia, 1986). Cf. Arendt, On Revolution 90 (cited in note 26) ("Montesquieu's great insight that even virtue must have its limits"); J.G.A. Pocock, The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition 491-92 (Princeton, N.J.: Princeton University Press, 1975) ("Pocock, The Machiavellian Moment").

in determining those ends.[142]

Common Sense taught that the ends of republican government, because they are ultimately moral ends, are traceable exclusively to "moral sense" rather than to reason. Indeed, by 1790 much of what the Common Sense school of philosophers had lately accomplished had been intended, and was indeed interpreted, as a scientific vindication of 18th-century British moral sense theory, from Shaftesbury and Butler onward.[143] Importing all the empirical authority that the Common Sense school had restored to the "senses" in general, the "moral sense" became no longer a mere sentiment but a "power of moral perception . . . both intellectual and active," and fully able to "judge as well as inform."[144]

Particularly with regard to Wilson's federal theory, what may today be most noteworthy in Wilson's exposition of the reconfirmed moral sense theory of the late 18th century is how it intensifies Wilson's own Common Sense preoccupation with the authority of language. And in Wilson's federal theory the authority of language becomes not so much the authority of "philosophy" but of culture at large: "Languages were not invented by philosophers . . .," says Wilson, "[t]hey were contrived by men in general, to express common sentiments and perceptions." The very "structure of languages," which testifies to the reality and truth of the moral distinctions perceived by the moral sense, compels the conclusion that the existence of the moral sense must be presumed in any "scientific" attempt to understand human affairs.[145]

Yet when Wilson proceeds from this initial question of the existence of the moral sense to questions about its capabilities in the practical matters of morals, politics, and law, he begins to turn his attention away from the structure of language viewed "universally" and toward the actual phenomena of the language of the Atlantic culture of his day at its most "morally estimable."[146] In other words, it is precisely to the language of "polite letters" that he turns. And "moral sense," when examined in this practical sphere, becomes for him very much a matter of what he calls "internal taste."[147]

As for guides in such matters, figures like Pope and Addison take on an

142. 1 McCloskey, Works 132–43, 206, 213—esp. at 137 & 141: "Reason judges either of relations or of matters of fact"; cf. at 136, on a secondary class of moral truths that are deduced by reasoning. Cf. ; → Smith, 22 J. Pol. (1960) (cited in note 132).

143. See, e.g., D. Daiches Raphael, The Moral Sense (London: Oxford University Press, 1947). Cf. the specific passages and cross-references in the anthology, 2 Raphael, British Moralists, 1650-1800, at 172–75, 267ff., 300–301 (2 vols.; Oxford: Clarendon Press, 1969). Cf. Howe, 44 Wm. & Mary Q. at 492, 497, & *passim* (cited in note 6).

144. 1 McCloskey, Works 133, 143, 203, 209, 225.

145. *Id.* at 135. Cf. Benjamin T. Spencer, The Quest for Nationality: An American Literary Campaign 56 (Syracuse, N.Y.: Syracuse University Press, 1957) (quoting Noah Webster's remark that language is "not framed by philosophers"). But for Webster, this notion was, of course, a premise not for universalism but nationalism, in the restrictive sense. Cf. Richard Bridgman, The Colloquial Style in America 6–8, 43 (New York: Oxford University Press, 1966).

146. 1 McCloskey, Works 135.

147. *Id.* at 142, 393. Cf. Madison as quoted by Adrienne Koch at xv in her Introduction to her edition of Notes of the Debates in the Federal Convention of 1787, Reported by James Madison (Athens: Ohio University Press, 1966) ("Koch, Notes").

importance equal to that of Plato and Aristotle. In fact, in Wilson's most extensive set of reflections on American federal theory, which came in his law lectures, poets and bellelettrists take on an importance even greater than the greatest philosophers. The rhetoric of "polite letters" and the "pure diction" (as Wilson appropriates it from among the many dictions) of Augustan poetry are the moral idiom deemed most effective for animating American federal union, through "the social operation" of "moral abstraction."[148] Indeed, in Wilson's vision of republican politics, as in some modern conservative—and elegantly contested—reconsiderations of the "ethics and imagery" of the "Augustan humanists," "[s]tyle and institutions are ultimately the same thing."[149] And "taste" becomes more than a literal anagram of the word "state;" taste becomes an important cultural analog of the state.[150] Thus, for Wilson, American republicanism becomes primarily a matter of "cultivation." And Federalist politics, particular, must assume the tasks of cultural management.[151]

148. On "pure diction" in this sense and in this context, see Donald Davie, Purity of Diction in English Verse, esp. at 29–40 (London: Routledge & Kegan Paul, 1967).

I have been forcefully reminded by Professor Aubrey Williams that the uses Wilson made of Augustan verse (and prose) amount to a selective appropriation that cannot be and should not be our own—if only (but probably not only) because we have now come to know the Augustans better than Wilson and his polite contemporaries cared or dared to during the "Victorian Prelude" of the late 18th century. Cf. Maurice J. Quinlan, Victorian Prelude: A History of English Manners, 1700–1830, esp. ch. 8, Changing Taste and Temperament (rev. ed. London: Frank Cass & Co., 1965). For examples of authentically Augustan verse impolite to the point of the scatological, Professor Williams recommends Jonathan Swift's "Dick, a Maggot," "A Beautiful Young Nymph Going to Bed," and "Cassinus and Peter."

149. Quoting Paul Fussell, The Rhetorical World of Augustan Humanism: Ethics and Imagery from Swift to Burke (Oxford: Clarendon Press, 1965). See esp. ch. 9 (at 211–32), the title of which is taken from Burke: "The Wardrobe of a Moral Imagination." Fussell's concluding sentences at 232 capture a point central to his argument about why the Augustan humanists took rhetoric so seriously: "And as we have seen, just as 'drapery' is the dress of man, style is the dress of thought. The dress may vary from Poor Tom's rags to Johnson's 'laced or embroidered waistcoast', but in expression as well as in action external conventions are indispensable: the 'dresses' which clothe thought come from the same objective 'moral' wardrobe as the conventions and institutions which humanize and dignify man. Styles and institutions are ultimately the same thing, and in either to try to invent one's own is to renounce one's humanity."

Whether Fussell gives an *accurate* account of "Augustan humanism" in general, or any part of it, is not a question I mean to confront here—any more than I mean to try to resolve questions about the philosophical or ethical merit of Wilson's own "mimetic literalism." But for an authoritative critique of such naive literalism as purveyed in the polite literary theory of the ubiquitous Kames (who was Reid's patron and whose ideas are fairly taken as just the sort of 18th-century Atlantic orthodoxy Wilson meant to endorse), one need look no further, as I have said, than I.A. Richards' Philosophy of Rhetoric itself (New York: Oxford University Press, 1936). And for a more recent—and an authentically Johnsonian—critique of the mimetic confusion of "words" with "things" (where "things" include both "nature" and "morals"), see Jean H. Hagstrum, Samuel Johnson Among the Deconstructionists, 39 Ga. Rev. 537, esp. at 540 (1985), quoting René Wellek: " 'the relation of mind and world is more basic than language' "; and at 546, quoting Johnson against "the shameful act of 'imposing words' (the 'daughters of earth') for ideas (clear mental images) or for things (the 'sons of heaven')."

150. This is my reformulation of a provocative generalization couched in *very* similar terms by Daniel Cottom, in a book to which I am greatly indebted, The Civilized Imagination: A Study of Ann Radcliffe, Jane Austen, and Sir Walter Scott 24 (Cambridge: Cambridge University Press, 1985) ("Cottom, The Civilized Imagination").

151. Cf. Linda K. Kerber, Federalists in Dissent: Imagery and Ideology in Jeffersonian America, esp. ch. 6, Images of Social Order (Ithaca, N.Y.: Cornell University Press, 1970).

VI. "ENLARGING THE SPHERE": THE "FEDERAL REPUBLIC" AS METAPHOR

> ". . . this many headed monster . . . the favoured bantling must have passed through the short period of its existence without a name, had not Mr. *Wilson*, in the fertility of his genius suggested the happy epithet of a *Federal Republic*."
>
> —An Anti-Federalist pamphleteer, writing as "A Columbian Patriot" in 1788[152]

In his law lectures of 1790–91, when Wilson arrived at the point of trying to explain and justify the federal union recently created under the new national Constitution, he was presented with but one more in a series of opportunities to hold forth on his own theory of American federalism. As a leading participant at the Philadelphia Convention, and as the acknowledged leader of the nationally influential ratification campaign in Pennsylvania, Wilson by this time had already had a number of occasions to pronounce on the subject. But unlike the circumstances at the Philadelphia Convention, or those during the ratification debates—to say nothing of the cases on which Wilson sat as an associate justice of the first national Supreme Court—the occasion of his law lectures afforded him license to indulge to the utmost his penchant for "comprehensiveness." In the lecture that comes down to us under the title "Of Man, As a Member of a Confederation,"[153] what is most likely to surprise a reader today is that, in making a case for the federal union he had done as much as anyone to establish, Wilson appeals for supporting authority at crucial points in his argument much more to the poetry of Alexander Pope and James Thomson than to the theories of any philosopher or to the practical wisdom of any statesman.

In fact, ever since Wilson's own days as a law student, he had shown a special interest in polite literature and had made a point of displaying that interest in what he himself wrote.[154] In 1777 he had even adopted the name "Addison" as his pseudonym in waging an early and unsuccessful campaign of published letters and addresses calling for the Pennsylvania Constitution to be replaced with one more to the liking of the Republican party in that state.[155] In any case, by the time Wilson began delivering his law lectures, in December of 1790, not only had he led the Republicans to victory in their long campaign to secure the sort of state constitution they wanted, he had also established quite a reputation for himself as a polished rhetorician—albeit one whose haughty demeanor and bespectacled squint may sometimes have diminished

152. See text at note 177 *infra*.

153. A passing remark by James Wilson's first editor, his son Bird, suggests that the elder Wilson himself was not the one who assigned the separate lectures their respective titles. 1 McCloskey, Works 64 (in Preface by Bird Wilson) (cited in note 8).

154. Cf. Conrad, Polite Foundation, esp. at 361ff. (cited in note 12).

155. Smith on James Wilson 114–15 (cited in note 120).

the full effect of his eloquence.[156]

Wilson's friend and sometime political ally Benjamin Rush once wrote that Wilson's "eloquence was of the most commanding kind," and that, when Wilson spoke on the floor of the Continental Congress, "Not a word ever fell from his lips out of time, or out of place, nor could a word be taken from or added to his speeches without injuring them."[157] By 1790 Wilson was known particularly for his evocative, figurative rhetoric, whose "occasional simplicities" and " 'brilliant conceits' " alike, while sometimes eliciting "sneers," seem nevertheless to have proved generally rather effective in swaying his audiences.[158] In his great speech of November 24, 1787 at the Pennsylvania ratifying convention, Wilson moved his adversaries to mock him for his "fertile imagination" in his displays of the same rhetorical style that prompted his allies to compare his "power" and "elegance" with those of Demosthenes and Cicero.[159]

Modern scholars, as well, have often remarked on Wilson's "masterful" rhetoric,[160] especially his prominent use of metaphors.[161] And yet even in calling attention to Wilson's penchant for metaphor, the most astute modern commentators have not paused to say much about it. Perhaps it is in the very nature of Wilson's metaphors that they do not or cannot arrest the attention of readers today. Even at their most original, these metaphors now tend to sound utterly conventional and hardly very imaginative. But, then, Wilson himself was much more interested in promoting a "reconciliation"[162] between convention and imagination than in exploring even the most fruitful contradictions between them. To him it was the importance of the connections not the discontinuities between the individual mind and the public mind that chiefly justified his conspicuous use of figures of speech.

Metaphor was, I am arguing, so prominent in Wilson's political rhetoric

156. See generally *id.*, e.g., at 3, 10, 25, 136, 202, 266, 294. Cf. McMaster & Stone at 183 & 187 (cited in note 8) (on Wilson's "lofty carriage"); 3 Farrand, Records 92 (cited in note 3): "No man is more clear, copious, and comprehensive than Mr. Wilson, yet he is no great orator. He draws the attention not by the charm of his eloquence, but by the force of his reasoning"; Sanderson's Biography of the Signers to the Declaration of Independence, rev. & ed. Robert T. Conrad 499, 520 (Philadelphia: Thomas, Cowperthwait & Co., 1848).

157. Corner, ed., Autobiography of Rush 150 (cited in note 8).

158. McMaster & Stone, at 758–59 (Sketches of the Members of the Pennsylvania Convention, quoting from Graydon's Memoirs).

159. See Jensen, ed., at 339 (cited in note 8), ed. note (quoting "Centinel" and Francis Hopkinson); cf. microfiche frame 242 (Jasper Yates: "one of the most sensible, learned and elegant speeches . . . on the new Constitution of the United States, that my ears were ever gratified with").

160. See, e.g., Richard E. Amacher, American Political Writers, 1588–1800, at 146 (Boston: Twayne Publishers, 1979).

161. E.g., Ralph A. Rossum, James Wilson and the Pyramid of Government: The Federal Republic, 6 Pol. Sci. Reviewer 113 (1976) (reprinted in Ralph A. Rossum & Gary L. McDowell, eds., The American Founding: Politics, Statesmanship, and the Constitution 62 (Port Washington, N.Y.: Kennikat Press, 1981)). Cf. Geoffrey Seed, James Wilson 95 (Millwood, N.Y.: KTO Press, 1978) ("Seed on Wilson").

162. 1 McCloskey, Works 185 (cited in note 8). Cf. Conrad, Polite Foundation 368 & *passim* (cited in note 12).

largely because his theory of metaphor was so important to his "comprehensive" approach to republican political culture. Given his vision of republicanism in America, where *popular* power, knowledge, virtue, and happiness were to nourish one another, it stood to reason that Wilson's Federalist rhetoric *and theory* would incorporate a salient poetics of federalism. Indeed, a poetics for American federal theory might seem to have been essential to prudent hopes for its success. After all, the America of the early national period was not very far removed, either in time or in political culture, from the Revolutionary era itself, during which Americans had "quoted Addison, Thomson, Pope, Milton, and Shakespeare as political authorities hardly less often than they [had] quoted Locke or Montesquieu."[163] If anything, by the 1790s Americans' enthusiasm for the cultural instruction they took from teachers like Hugh Blair and James Beattie further encouraged this tendency to cultivate a figurative and affective rhetoric of republicanism, which would speak directly to the heart as well as to the mind of the citizenry. Furthermore, the candid aspirations to high culture that were espoused by many partisans of the Federalist persuasion may have made a poetics of American federal union seem all the more indispensable for identifying such a union with American republicanism.[164]

But, as I have already suggested, it would be wrong, or at least insufficient, to try to account for Wilson's metaphorical approach entirely in terms of the *constraints* of the politics of his day. His poetics of American federalism, as they reflected his highly affective conception of federal union, were very much bound up both with his distinctively positive idea of an American "nation," and with his idea of what "knowledge" itself is and how it should be increased and put to use in a republic.

Even today there remains some room for debate over how thoroughly and seriously Americans pondered any idea of a truly national union prior to the successful movement that led the "nationalist assault"[165] during the early days of the Philadelphia Convention.[166] In any event, James Wilson's own

163. Kenneth Silverman, A Cultural History of the American Revolution: Painting, Music, Literature, and the Theatre in the Colonies and the United States from the Treaty of Paris to the Inauguration of George Washington, 1763–1789, at 83–84 (New York: Thomas Y. Crowell Co., 1976).

164. Consider, e.g., John Adams's famous remark, "The science of government is my duty to study, more than all other sciences. . . . I must study politics and war, that my sons may have liberty to study mathematics and philosophy, geography, natural history and naval architecture, navigation, commerce, and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry and porcelain"; quoted in Adrienne Koch, Power, Morals, and the Founding Fathers: Essays in the Interpretation of the American Enlightenment 101 (Ithaca, N.Y.: Cornell University Press, 1961). Cf. Linda K. Kerber, Federalists in Dissent, esp. chs. 1 & 4 (cited in note 151); Emory Elliott, Revolutionary Writers: Literature and Authority in the New Republic, 1725–1810 (New York: Oxford University Press, 1982).

165. Cf. Clinton Rossiter, 1787: The Grand Convention 159ff. (reprint ed. New York: W.W. Norton, 1987).

166. For a convenient overview of Americans' limited consideration *before 1787* of the matter of national union, see Samuel H. Beer, Federalism, Nationalism, and Democracy in America (Presidential Address, American Political Science Association, 19[illegible] → 72 Am. Pol. Sci. Rev. 9,

view was that, although in 1776 the 13 American colonies had declared their independence "*Unitedly*," as one nation, "not *Individually*," as separate states[167]—and despite Wilson's own efforts in the Continental Congress as early as 1777 to forge an effective national government[168]—nevertheless, the union provided for in the Articles of Confederation remained an inadequate association largely because it had been born out of "necessity not of choice."[169] Nothing in the early years of the Revolutionary settlement did anything, however, to diminish Wilson's own commitment to a vision of a strong national union, not merely as an expedient recourse in coping with the immediate problems of government in the 1780s but as a guiding ideal instinct with the most progressive republic theory. By the time of the Philadelphia Convention, Wilson was also saying that he had become as convinced as anyone could be that the majority of American citizens, as well, wanted a national union embodied in an "energetic" national government—and, again, not as a mere expedient against the political "evils" and "complaints" of the day, but as a further step toward fulfilling a national ideal that was a desirable and justifiable end in itself.[170]

10–12 (1978). → Merrill Jensen, The Ideal of a National Government During the American Revolution, 58 Pol. Sci. Q. 356 (1943). Two recent and important works that address this matter are Jack N. Rakove, The Beginnings of National Politics: An Interpretive History of the Continental Congress, esp. at 183-191 (New York: Alfred A. Knopf, 1979); and Peter S. Onuf, The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775–1787 (Philadelphia: University of Pennsylvania Press, 1983).

167. 1 Farrand, Records 324 (June 19th) (cited in note 3); cf. at 329. Indeed, Wilson's remarks at the Philadelphia Convention remain today "[t]he authority perhaps most often cited" in support of this argument for the historic Revolutionary foundation of American nationalism. Raoul Berger, Federalism: The Founders' Design 22 (Norman: University of Oklahoma Press, 1987); cf. at 33, where Berger tries to portray Wilson as later "departing from his earlier remarks"; nevertheless Berger does so by quoting Wilson's later remarks out of context, and indeed, by going so far as to quote Wilson's dicta in an important Supreme Court case of 1796 without reference to the holding of the Court, in which Wilson joined.

168. See, e.g., Seed on Wilson 26 (cited in note 161), for Wilson's and John Adams's efforts in this regard. Cf. William Winslow Crosskey & William Jeffrey, Jr., Politics and the Constitution in the History of the United States: vol. 3, The Political Background of the Federal Convention 99–105 (Chicago: University of Chicago Press, 1980) (on John Dickinson's own 1776 plan for a strong plan of union and its influence on Dickinson's former pupil Wilson). → James H. Hutson, John Dickinson at the Federal Constitutional Convention, 40 Wm. & Mary Q., 3d ser., at 256, esp. 262 (1983); Milton E. Flower, John Dickinson: Conservative Revolutionary 237 & *passim* (Charlottesville: University Press of Virginia, 1983).

169. Koch, Notes 162 (cited in note 147).

170. 1 Farrand, Records 253 (cited in note 3); Jensen, ed., at 348 (cited in note 8). Cf. 1 Farrand 49: "On examination it would be found that the opposition of the States to federal measures had proceded [*sic*] much more from the Officers of the States, than from the people at large"; cf. also at 133.

For an especially probing reconsideration of the "ends" of American federalism, see a classic article by Martin Diamond—which is interesting not least for its argument that the formulation of a complete theory of the ends of American federalism came not at the Founding but with Tocquevi → The Ends of Federalism, 3 Publius 129 (1973). See esp. 146–147, where Diamond discusses Tocqueville's hopes that "disinterested" and "instinctive" patriotism would develop in America as a result of *decentralization*: "Thus, free institutions, generated and sustained by administrative decentralization, draw men into interested cooperation and then, Tocqueville hopes, by habituation into an authentic sympathy with their fellow men. . . . Administrative decentralization is the leading artifice for the creation of that new kind of patriotism." See also 142–43,

In focusing on this vision of a strong national union for purposes more than instrumental, Wilson was indeed somewhat distinctive, perhaps unique, at least among the first rank of Federalists during the late 1780s and early 1790s. For example, as between a truly "federal" union of the 13 states and a thoroughgoing "consolidation" of them under one government, Wilson took pains at the Philadelphia Convention to distinguish his own genuinely "federalist" position from the "consolidationist" nationalism mooted there by Hamilton and others.[171] And Wilson was never one to dwell, as did Hamilton, writing later as Publius, on the improvement of administrative efficiency as the principal advantage of strong national government.[172] By the same token, even within the span of the Philadelphia Convention, to say nothing of the early 1790s, Wilson's nationalism proved less changeable than that of Madison himself.[173]

In the language of the day, one might say—even if too summarily—that, at the Founding of the late 1780s, Wilson was a more thoroughly republican Federalist than Hamilton, and a more "highly Federalist"[174] republican than Madison. And yet it was because these terms—"federalism" and "republicanism"—were so important as key[175] designations and points of reference in the debates of the time that they were not without their necessary ambiguities.[176]

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where Diamond discusses Tocqueville's notion of federal "decentralization" as a check against despotism.

171. For but one example of Hamilton's avowedly consolidationist nationalism, see 1 Farrand, Records 286 ("a compleat sovereignty in the general Governmt."); cf. at 355 for remarks of William Samuel Johnson to the effect that "One Gentleman alone (Col. Hamilton) . . . boldly and decisively contended for an abolition of the State Govts." Cf. Wilson, in *id.* 137, 322–23, and 2 Farrand, Records 10. For evidence that such a distinction, between consolidationism and Wilson's own position, was perceived by contemporaries at the Convention, see 1 Farrand, Records 355 (Johnson). For other consolidationist remarks besides Hamilton's, see *id.* at 136-37, 424 (George Read).

172. Cf. Gerald Stourzh, Alexander Hamilton and the Idea of Republican Government (Stanford, Cal.: Stanford University Press, 1970) ("Stourzh, Alexander Hamilton"), at 82–83 and at corresponding endnote 23, esp. for Hamilton's quotation of Pope, in Federalist No. 68: "Though we cannot acquiesce in the political heresy of the poet who says—'For forms of government let fools contest— / That which is best administered is best.'—yet we may safely pronounce, that the true test of good government is its aptitude and tendency to produce good administration." Stourzh observes, at 83, that this is "a recurring theme of Hamilton's political writing."

173. Cf. Banning, *in* Beeman et al., Beyond Confederation (cited in note 25); Banning, The Hamiltonian Madison: A Reconsideration, 92 Va. Mag. Hist. & Biog. 3, 7, & *passim* (1984). But see *con* ➡ Charles F. Hobson, The Negative on State Laws: James Madison, the Constitution, and the Crisis of Republican Government, 36 Wm. & Mary Q., 3d ser., at 215 (1979).

174. Cf. 1 Butterfield, Rush Letters 507 (cited in note 58).

175. See Raymond Williams' notion of "keywords" as words, involving "ideas and values," that are of sufficient strategic importance in contests for power and authority such that those who care about victory are likely to be moved to invoke these words, and to try to appropriate them. Keywords are, then, keys to entire agonistic vocabularies and are evidence of contests deemed suitable for, and worthy of, articulate dispute. Williams, Keywords: A Vocabulary of Culture and Society 16-17 & *passim* (rev. ed. New York: Oxford University Press, 1983). Cf. a new work that was, unfortunately, published too late for me to profit from it in writing and revising the present article, Daniel T. Rodgers, Contested Truths: Keywords in American Politics Since Independence (New York: Basic Books, 1987).

176. On the ambiguous nature of the term "federalism" at the Founding, the best discussion remains, I believe, Martin Diamond, *The Federalist*'s View of Federalism, *in* George C.S. Benson, ed., Essays in Federalism 21, esp. at 24ff. (Claremont, Cal.: Institute for Studies in Federalism,

When Wilson's position is reconsidered now, in the context of the nature and range of the language of American politics at the Founding, it is especially interesting to recall that at least one engaged observer of the day pointed to Wilson as the Federalist who had first coined the term "Federal Republic." Writing as "a Columbian Patriot," Mercy Warren in early 1788 published a pamphlet condemning the proposed Constitution and characterizing the new form of government to which it would give birth as a "bantling" that might have gone "without a name, had not Mr. *Wilson*, in the fertility of his genius, suggested the happy epithet of a *Federal Republic*."[177] Whether Warren's ascription is accurate is a question difficult to settle and, in any case, beside my point here. Rather, it is the fact of Warren's ascription itself, accurate or not, that is significant for my argument, because the ascription reminds us that, in the debates of the time, some able disputants took the niceties of language quite seriously, and perceived (or presumed) that Wilson did more than most.

In this light, the term "Federal Republic," like Wilson's avowed coinage "moral abstraction," assumes the significance of a metaphor. Indeed, in his "comprehensive theory" of American federalism, Wilson treated the terms "federal republic" and "moral abstraction" as metaphors *for one another*. In so doing he was attempting to "reconcile" a number of "seeming contradictions"[178] in Federalist theory and to augment not only the *means* for achieving American federal union, but also the "real" *source* he thought most important to sustaining such a union and the *ends* that should guide and control American federalism.[179] It was precisely the capability of metaphor for synthesizing source, means, and ends[180] that tempted Wilson to a "comprehensive" vision of American federal union that was so self-consciously metaphorical.

In the 1780s the project of relating any conception of American federal union to any meaningful concept of American "nationality" would seem to have required some reference to abstraction, if only because it was so manifest

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1961). Among the many important discussions of the ambiguities of "republicanism" at the Founding, I find especially hel| → Linda K. Kerber, The Republican Ideology of the Revolutionary Generation, 37 Am. Q. 474 (1985).

177. For the authoritative modern edition of the pamphlet in question—Observations on the New Constitution, And on the Federal and State Conventions. By a Columbian Patriot (Boston, 1788)—see 4 Herbert J. Storing, ed., The Complete Anti-Federalist 270 (7 vols.; Chicago: University of Chicago Press, 1981). I quote here from p. 275. The editor, at 286, suggests that Warren's reference is to Wilson's Nov. 24, 1787 speech; see Jensen, ed., note 8, at 341–42 (cited in note 8). Cf. the same 1788 pamphlet, reprinted in Pamphlets on the Constitution of the United States, ed. Paul Leicester Ford 1 (Brooklyn, N.Y., 1888; reprint ed. New York: Da Capo Press, 1969). Ford attributed the pamphlet to Elbridge Gerry.

On the case for Warren's authorship, and on her Anti-Federalist views generally, → Lester H. Cohen, Explaining the Revolution: Ideology and Ethics in Mercy Otis Warren's Historical Theory, 37 Wm. & Mary Q., 3d ser., at 200, 202ff. (1980).

178. 1 McCloskey, Works 185. Cf. note 162 *supra*.

179. Cf. Diamond, 3 Publius 129 (1973) (cited in note 170). Also cf. Arendt, On Revolution 44ff., 136, & *passim* (cited in note 26), to the effect that the American Revolution augmented merely the means not the ends of government.

180. Cf. Wayne C. Booth, Metaphor as Rhetoric: The Problem of Evaluation, *in* Sheldon Sacks, ed., On Metaphor 47, 67 (Chicago: University of Chicago Press, 1979) ("Booth, Metaphor").

at the time that a concrete American nationality, in the form of a general American culture, did not yet exist.[181] But in this respect Wilson sought to make a virtue out of what might have been a vice in American Federalist theory, especially as Federalist theory law open to the disturbing criticism that it departed from the essential principles of neoclassical republicanism.

If, as Samuel Johnson tells us, it is in the nature of a metaphor that it "gives . . . two ideas for one," and if, as I.A. Richards adds, the tension or disparity between the two ideas given is likely to be at least as important as any suggested resemblance between them,[182] then during the American Founding of the 1780s the new term "Federal Republic"—and perhaps it was Wilson's coinage—might be said to have operated as a rich and problematic (if ultimately not quite the most important) metaphor in the American language of politics.

Familiarity with the neoclassical maxim that a republican form of government is practicable only in a polity of small territorial extent aroused anxiety among Federalists and Anti-Federalists alike over the question whether an American federal union would seem to, or would in fact, compromise American republican principles. And it was this general anxiety—over the problem that a "Federal Republic" posed a contradiction in terms—that Madison addressed in the stunning linguistic and theoretical turn consummated in his *Federalist* paper No. 10.[183] There Madison secured the American reconception of what republicanism *as government* meant: whereas classically, republicanism had meant *self government*, it became something quite different in the American identification of republicanism with *government by others*, namely, the citizens' representatives.[184]

Madison consolidated this identification of republicanism with representation largely by means of an argument culminating in his celebrated prescription that, in order to "provide for the safety, liberty, and happiness of the

181. For a compelling recent argument in support of this point, see John M. Murrin, A Roof without Walls: The Dilemma of American National Identity, in Beeman et al., Beyond Confederation at 333 (cited in note 25). Cf. J.R. Pole, Enlightenment and the Politics of American Nature, *in* Roy Porter & Mikuláš Teich, eds., The Enlightenment in National Context 192, 208–9 (Cambridge: Cambridge University Press, 1981) ("Pole, Enlightenment"). See also Joshua I. Miller, Local Ideas in Early American Politics: Decentralist Ideas and Practices, 1630-1789 (Ph.D. diss., Princeton University, 1984).

182. Richards, The Philosophy of Rhetoric 93, 96, 126–27 (New York: Oxford University press, 1936). Cf. Paul Ricoeur, The Rule of Metaphor: Multi-disciplinary Studies of the Creation of Meaning in Language, trans. Robert Czerny et al., at 76 (Toronto: University of Toronto, 1975) ("Ricoeur, Rule of Metaphor") ("The pioneering job done by I.A. Richards' *The Philosophy of Rhetoric* cannot be overestimated").

183. For Madison's own anticipation of this argument in Federalist No. 10, see 1 Farrand, Records 134–36 (cited in note 3).

184. Cf. Pocock, Virtue 16n. & 271 (cited in note 12); and Pocock, The Machiavellian Moment 522ff., 538, & *passim* (cited in note 141). On Hamilton's express appreciation—by 1777—of the conceptual novelty of the "representative democracy" of the American republics, see Stourzh, Alexander Hamilton 50ff. (cited in note 172).

Community,"[185] the territorial "sphere" of electoral politics in America not only could be but would have to be "extended."[186] And, as I have already indicated, Madison's argument in this vein, however much or little it may have owed to Hume, proved at least as ingenious, successful, and altogether important as any other Federalist contribution to the "new science of politics." It is probably not too much to say that this Madisonian prescription, for "extending the sphere" of politics in order to control and harness demiurgic factionalism, has also proved to be even more important to American federal theory since the Founding than it was to the eponymous Federalists in the years of their initial triumphs.

While both Madison's "original" Federalist theory and the "Madisonian theory" of federalism as it has been variously reconstituted ever since do include much of importance besides this insight about the need for "extending" the territorial "sphere" of politics in a modern republic, it is in no way inauthentic to view this insight as an operative principle absolutely central to Madison's vision of American federal union. Indeed, in reconsidering the American "Federal Republic" of the 1780s as a metaphor, it would seem that the principal function, if not the intention, of Madison's argument for "extending the sphere" was nothing less crucial than reducing into the concrete terms and practicable mechanics of the new political science the "apparent contradiction" a federal republic initially posed.

Emanations of this reductive approach can be found in much of Madison's own record of the development of his federal theory at the time of the Founding, perhaps most notably in his famous remark at the Philadelphia Convention on June 19 that "The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmountable."[187] In the terms of the analysis of metaphor that have become so widely used since I.A. Richards introduced them, the "Federal Republic" was, in the founders' political culture, a new metaphor, the tenor (or "principal subject") of the metaphor being "republicanism," the vehicle (or "what it is compared to") "federalism," and the ground (or basis for their comparison, interrelation, and interaction) the "affair of representation."[188] It is, then, chiefly Madison's focus on this third element, "representation," as the key to what a "federal republic" means, that gives that meaning something of a metaphorical quality.

At the same time, however, there is something too reductive to be called

185. 1 Farrand, Records 53 (cited in note 3). → John Zvesper, The Madisonian Systems, 37 West. Pol. Q. 236, 252 (1984).

186. Federalist No. 10, at 64 (J. Cooke ed., 1961).

187. 1 Farrand, Records 321 (cited in note 3).

188. Richards, The Philosophy of Rhetoric, at Lecture V, "Metaphor," esp. at 96-97 (New York: Oxford University Press, 1936). Cf. Morse Peckham, Metaphor: A Little Plain Speaking on a Weary Subject, *in* Peckham, The Triumph of Romanticism 401, 406 (Columbia: University of South Carolina Press, 1970) ("Peckham, Metaphor"); Geoffrey N. Leech, A Linguistic Guide to English Poetry 151 (Harlow, Eng.: Longman, 1969); Ricoeur, Rule of Metaphor 24, 57, & *passim* (cited in note 182).

truly metaphorical about Madison's stroke of genius in defining the fundamental matter of representation as a matter of constitutional design, and thereby addressing it as a problem to be handled according to a political science of mechanistic "adjustment." Geoffrey Leech, a modern student of metaphor who is generally sympathetic to I.A. Richards' approach to the topic, suggests that it is only in a simile and not in a metaphor that the "ground" of comparison is specified. According to this distinction, then, Madison's idea of the federal republic, because expressly, specifically, *and definitively* predicated on his operative prescription for extending the territorial sphere of politics, would seem to be more a simple simile than a rich metaphor. "Metaphor," says Leech, "is inexplicit with regard to both the ground of comparison, and the things compared. This is not only a matter of indefiniteness . . . but of ambiguity."[189] Or, as Ricoeur puts the matter even more evocatively (although he, no less than Leech, acknowledges his large debt to Richards):

> Reflective lucidity applied to metaphorical talent consists in good part in locating the "ground" of the metaphor in its underlying "rationale." Whether the metaphor concerned be dead (the leg of a chair) or living (an author's metaphor), our procedure is the same: we look for its ground in some shared characteristic. But this characteristic does not necessarily lie in a direct resemblance between tenor and vehicle; it can result from a common attitude taken to them both. And a vast range of intermediary cases fans out between these two extremes. . . . [I]f metaphor consists in talking about one thing in terms of another, does it not consist also in perceiving, thinking, or sensing one thing in terms of another.[190]

While Madison's federal theory may have proved, from the early 1790s onward, flexible enough to permit him to shift from his nationalist position during the making and ratification of the Constitution to his advocacy of states' rights thereafter,[191] the thoroughly modern social scientist's reductionism of Madison's seminal Federalist political science did not relish the ambiguities of *representation as metaphor* so much as it sought to obviate them. This is a point, like so many others, that a comparison of Madison with Wilson does much to highlight.

Wilson also thought that the creation and preservation of an American federal union required, as he said, "enlarging the sphere." Yet in this respect Wilson's primary focus was quite different from Madison's. When Wilson spoke of "enlarging the sphere," it was not the territorial sphere of politics that concerned him but rather, once again, the boundless sphere comprising

189. Leech at 157 (cited in note 188).

190. Ricoeur, Rule of Metaphor 81–82, 83 (author's notes omitted) (cited in note 182).

191. At least one leading senior scholar of Madisonian political thought, Professor Marvin Meyers, considers that this shift of position "must" have left Madison "theoretically embarrassed." Meyers, Mind of the Founder at xlii (rev. ed. Hanover, N.H.: University Press of New England, 1981) ("Meyers, Mind of the Founder," rev. ed.).

the "powers" of the human mind. So he told his law students. The sphere to be "enlarged" was, for him, the mental and moral sphere of everyday public and private life, including "the social and benevolent affections," all the "finer operations of the mind," and—not least—all "knowledge" itself that serves and improves the "community" at large.[192]

In sum, whereas for Madison the crux of American federal theory lay, as a matter of disengaged political science, in extending the sphere of electoral politics, for Wilson the vital principle of American federal theory lay in "enlarging the sphere" of "moral abstraction," both in the "publick mind" and in the individual minds of the citizens. And for Wilson, enlarging this sphere was at least as much a matter of moral science as of political science. A federal union of authentically republican personality would require no less than this, because, said Wilson, for a citizenry "[t]o embrace the whole, requires an expansion of mind, of talents, and of temper."[193]

None of these points of comparison and contrast between Wilson and Madison necessarily marks an irreconcilable disagreement between their respective theories of federalism. By and large, Wilson's founding vision of American federal union tended to supplement and complement Madison's rather than contradict it. Above all, Wilson and Madison agreed that an idea of representation was at the heart of American republicanism.[194] And Wilson, at least as forthrightly although not as exclusively as Madison, associated the idea of representation with "the act of election."[195] Moreover, Wilson was as emphatic as Madison in the view that enlarging the electoral districts in America would be quite necessary for the federal republic they both projected.[196] And Madison, for this part, as early as 1783, was already contemplating the theme that later came to predominate in Wilson's exposition of federal theory: the capability of a civic sociology wherein the "extended" patriotism of some citizens would gravitate toward "the disinterested object of aggrandizing [the] community."[197]

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192. 1 McCloskey, Works 235 (cited in note 8).

193. *Id.* at 267.

194. *Id.* at 311–12, 301–3; 2 McCloskey, Works 785; cf. at 721–46. Indeed, to Wilson, the *extension* of the principle of political representation in America was an important part of what made American republicanism unique. Cf. Jensen, ed., at 343–44, 354–55 (cited in note 8).

195. Cf. 1 McCloskey, Works 364.

196. See, e.g., 1 Farrand, Records 133 (cited in note 3).

197. Meyers, Mind of the Founder, 1st ed., at 36 (cited in note 29): "let it be observed—that the same active and predominant passion of the human breast, which prompts mankind to arrogate superiority and to the acquirement of riches, honor and power, which restricted to the selfish purposes of an individual we term *ambition*, is when extended to the disinterested object of aggrandizing a community, what we dignify with the appelation of *patriotism*—that the exertion of this principle being as advantageous to a republic, as it is useful to a man,—whoever will make the interest of his country his own, and shew a blind devotion to its views and prejudices, will . . . be honoured with the flattering distinction of *patriot*." These are words ascribed to Madison writing in 1783. Cf. the implications, for any theory of disinterested patriotism in an extended sphere, that are evident in Madison's remarks written in what Meyers, at 502, indicates was "[a]bout 1821": "We must not shut our eyes to the nature of man, nor to the light of experience. Who would rely on a fair decision from three individuals if two had an interest in the case opposed to

Thus, in respect to the overall distinction I am suggesting between, on the one hand, Madison's Federalist plan, as conceptualized chiefly in terms of a structural and operational political science, and, on the other hand, Wilson's Federalist vision as conceptualized chiefly in terms of a figurative moral science of civic personality, the evidence abounds that each of these partners in the early Federalist campaign supported much the same program. Nevertheless, the typifying differences in focus and emphasis between Wilson and Madison do indicate a difference in orientation that is important, no matter how little it precluded partnership between them as politicians or as apologists.

This difference in orientation is nowhere clearer than on the underlying question whether a moral purpose in federal union was intrinsic to the "moral promise" of that union. Knowingly or not, Madison tended to agree with Hume that, as David Epstein has summarized a point made by both Madison and Hume, "men in groups are less moved by . . . 'moral . . . motives' . . . than [men] are individually."[198] "Respect for character," said Madison, "is always diminished in proportion to the number among whom the blame or praise is to be divided. Conscience . . . is known to be inadequate in individuals: In large numbers, little is to be expected from it."[199] Thus, in the political science of an American federal republic, Madison thought the connections between the respective individual minds of the citizens and the public mind should not be a central concern of theorists, because such connections were, in the practice of republican politics, of limited, even if more than negligible, importance.

Here, it would seem, Wilson very much disagreed. He looked upon federal union in the new Republic as an independent moral value in and of itself, precisely because such a union, by increasing the sphere of actual and imagined association among the citizens, would serve both to increase greatly the fund of civic virtue and to give this fund of virtue greater political and moral effect.[200] In Wilson's resolutely antireductive view of federal union, as of everything else, "the connexion of affection" was no less important or capa-

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the rights of the third? Make the number as great as you please, the impartiality will not be increased, nor any further security against injustice be obtained, than what may result from the greater difficulty of uniting the wills of a greater number" (at 504). Contrast Wilson on "expanded patriotism," in 1 McCloskey, Works 268.

198. Epstein, Political Theory 90 (cited in note 13) (discussing Hume's essay Of the Independency of Parliament, and Madison's Federalist No. 10).

199. 1 Farrand, Records 135 (cited in note 3).

200. Here, again, I do not mean to assert that there was a *wholesale* difference between Wilson's and Madison's ideas in this respect. After all, the theme in question here is prominent in some of Madison's own 1791 and 1792 *National Gazette* essays, on the civic capability of political parties. See Edward C. Dreyer, Making Parties Respectable: James Madison's *National Gazette* Essays (paper presented to American Political Science Association and Center for the Study of the Constitution, Chicago, Sept. 5, 1987) (drawing heavily on earlier work by Lance Banning and John Zvesper). Thus, one should beware the temptation to hold Madison hostage to what may seem the puzzling inconsistencies with which he can be charged *if* one focuses exclusively on his contributions to *The Federalist*. Cf. Morton White, Philosophy, *The Federalist*, and the Constitution 159–68, esp. 166 (New York: Oxford University Press, 1987).

ble than "the connexion of interest"; and it was the equal importance of both these connections that supported his conception of an "expanded patriotism"—a "passion for the commonweal"—as a matter of "knowledge" as well as feeling.[201]

Wilson's "comprehensive" theory of the Federal Republic thus included—but also extended beyond—the "affair of representation," at least if one followed Madison in defining the affair of representation entirely as a matter of electoral politics. And because Wilson's federal theory was based on a moral science (rather than an avowed "political science") that relied so much on metaphors for its epistemological foundation, Wilson's federal theory took metaphors seriously—and no less so because they might be conventional, abstract, or ambiguous. To the contrary, it was only in terms of such metaphors that Wilson could reach another question that Madisonian political science tended to neglect. This question, although meaningless unless understood as a matter of metaphor, was also a question about representation: Not *who* but *what* does a "Federal Republic" represent? As a matter of course, Wilson answered the question in terms of another metaphor: "moral abstraction." And in addressing the question what "moral abstraction" represents, Wilson could not and did not escape *further* appeals to metaphor. Indeed, he sought them at every turn. In this way he meant to cast light on what a federal union in a republic means—by multiplying metaphors for representation itself, in order to conjure up a context of meaning for the Federal Republic as a new metaphor.

VII. METAPHORS FOR REPRESENTATION AS METAPHORS FOR AMERICAN FEDERALISM

> "The dimensions of the human mind are apt to be regulated by the extent and objects of the government under which it is formed."
> —Benjamin Rush to David Ramsay, in March or April 1788[202]

At the Philadelphia Convention there was no other Federalist to rival James Wilson as a principled and consistent advocate of direct popular elections. From his first general proposal (on May 31) for direct popular election of "both branches of the National Legislature"[203] to what may have been his last rueful allusion (on September 4) to his failure ever to muster much sup-

201. 1 McCloskey, Works 268. Yet, again, any assertion of a thoroughgoing difference between Wilson and Madison in this respect seems to me dubious—not to mention imprudent, in light of some of the most careful and subtle recent scholarship on Madison's "nationalism," e.g., Drew R. McCoy, James Madison and Visions of American Nationality in the Confederation Period: A Regional Perspective, *in* Beeman et al., Beyond Confederation 226, 244, & *passim* (cited in note 25).

202. See 1 Butterfield, Rush Letters 453, 454–55 (cited in note 58). Cf. text *infra* at note 246.

203. 1 Farrand, Records 52.

port among the other delegates for a provision for direct popular election of the President,[204] Wilson repeatedly indicated his distaste for the "interjection"[205] of any electors between the citizen voters and their elected officers.

Thus frustrated in his advocacy of direct election as a "first principle" that he had hoped would permeate the national Constitution, Wilson later recouped somewhat by securing a provision for the popular election of state senators in Pennsylvania, under the new Pennsylvania constitution adopted in 1790.[206] In his most famous speech at the Pennsylvania constitutional convention, Wilson heaped ridicule on the very idea of intermediary electors, based as this idea must be, he said, on the mistaken notion that such electors serve as "political alembicks" who by their own "purifying virtues" somehow "sublimate" and "refine" the representatives thus indirectly elected.[207]

Whether or not this notion of "sublimation" and "refinement," or "filtration," through indirect election had an important place in Madison's Federalist political science,[208] it had, then, virtually none in Wilson's more popular constitutionalism or in his more "comprehensive" theory of representation.[209] A quite different notion of "sublimation" and "refinement" *was*, however, of the greatest importance to Wilson in his vision of republican citizenship, emphasizing as it did not the occasional act of voting at the polls, but instead the everyday civic routine that Wilson thought the very right of suffrage should and would induce among the People.[210] Not the electoral mechanics of faction counterbalancing faction,[211] then, and, indeed, not merely the isolated act of voting, but rather *both* the actual exercise of the right

204. 2 Farrand, Records 501. For an interesting reconsideration of this matter from the vantage point of 1987, see Eric R.A.N. Smith & Peverill Squire, Direct Election of the President and the Power of the States, 40 West. Pol. Q. 29 (1987).

205. 2 McCloskey, Works 789 (cited in note 8).

206. Cf. Smith on James Wilson at 300–303 (cited in note 120).

207. 2 McCloskey, Works 792–93.

208. For a short restatement of the view that Madison, and Hamilton, in *The Federalist*, "set forth" a "republican" theory of "refined representation . . . through the election of the best men, to promote . . . responsiveness to constituents and care for the common good of society," see Jean Yarbrough, Representation and Republicanism: Two Views, *in* Daniel J. Elazar, ed., Republicanism, Representation, and Consent: Views of the Founding Era 77 (New Brunswick, N.J.: Transaction Books, 1979); reprinted from 9 Publius (1979). Yarbrough tends to contrast (e.g., at 97) this conception of "refined representation" with the contemporary British conception of "virtual representation."

For emphasis, to the point of overemphasis, on this same theme in both Madison's *and Wilson*'s ideas on representation, see Garry Wills, Explaining America: *The Federalist* 238–47 (Garden City, N.Y.: Doubleday & Co., 1981). The best corrective of Wills's misapprehension of Madison in this respect is Banning, 72 Va. Mag. Hist. & Biog. at 12–14 & *passim* (cited in note 173); cf. Epstein, Political Theory 99–107 (cited in note 13).

209. For a hint of Wilson's grudging resignation to the *fait accompli* with respect to the indirect election of senators in the national legislature, see 1 McCloskey, Works 414ff. Cf. Seed on Wilson 106 (cited in note 161).

210. For portrayals of this routine, see 2 McCloskey, Works 787–88 & 1 McCloskey, Works 404–5. Cf. Conrad, Polite Foundation 384 (cited in note 12); and Michelman, 100 Harv. L. Rev. at 54 (cited in note 63).

211. This is not to say that Wilson disagreed with Madison about the importance of "regulating" that "esprit de corp" the "ebullition" of which tends to factionalism. See 1 McCloskey, Works 266–67.

of suffrage *and* that abstract right itself serving to induce quotidian citizenship—for Wilson these together were the quintessential "sublimating" and "refining" agents in the politics of a republic. According to his vision, as he gave voice to it in his great speech of December 31, 1789 at the Pennsylvania constitutional convention, and as he reiterated it shortly thereafter in his law lectures,

> the right of suffrage, properly understood, properly valued, properly cultivated, and properly exercised, is a rich mine of intelligence and patriotism . . . an abundant source of the most rational, the most improving, and the most endearing connexion among the citizens . . . [; it is also] a most powerful, and, at the same time, a most pleasing bond of union between the citizens, and those whom they select for the different offices and departments of government.[212]

This conception of the right of suffrage as a "rich mine" and "abundant source," and a "powerful" and "pleasing" "bond," was something that Wilson thought the political science of his day had as yet done very little to elucidate and appreciate. Indeed, Wilson went out of his way to emphasize that, if it was fitting, as he thought, to characterize political science generally, "with regard to other subjects," as "still in its infancy," then it should be added that, particularly "with regard to" the right of suffrage, political science was even less advanced.[213]

To Wilson the inadequacy of political science in this particular "regard" was so egregious that his appeal to the alternative, complementary authority of his essentially metaphorical moral science became all the more important. The best way to a "proper understanding, valuation, cultivation, and exercise" of the right of suffrage lay open, as he saw it, not through the mechanics of the new science of politics but through the proliferation of enlightening and evocative metaphors for the suffrage, *and* for all the other contextual phenomena that were part of, or that could enhance, its significance.

Wilson's practice of adding to the general tissue of political metaphors of the day was, however, far from unique to him, for all that he appears to have excelled at it. Metaphors were so common in the public language of the time as now to seem hardly worthy of much notice. For example, when Madison in *Federalist* Paper No. 47 wanted to invoke the full force of the new American concept of political obligation based on "a consent that closely and actively

212. 2 McCloskey, Works 789; cf. 1 McCloskey, Works 405.

213. 2 McCloskey, Works 785. (Note what we today would consider the inversion in Wilson's use of the terms "infancy" and "childhood"; Wilson's meaning is nevertheless clear enough.) Cf. Hamilton's views on the political science of republican elections, e.g., in Federalist No. 35 and No. 36—esp. Hamilton's prescient insight about the importance of a "scientific" understanding of the "psychology" of voting behavior, an insight discussed in Judith N. Shklar, Alexander Hamilton and the Language of Political Science, *in* Anthony Pagden, ed., The Languages of Political Theory in Early-Modern Europe 339 (Cambridge: Cambridge University Press, 1987).

joined voter and representative,"[214] he referred to "*the chain of connection, that binds the whole fabric of the constitution in one indissoluable bond of unity and amity.*"[215] And very much to the point of Madison's figure of speech was that he was not thereby artfully contributing a new metaphor but instead simply quoting from the New Hampshire constitution. James Wilson, then, was merely repeating a familiar phrase in the American public litany of the founding era when he often referred to consensual political representation in America as "the chain of communication between the people and those, to whom they have committed the exercise of the powers of government."[216]

It would be both tedious and not very revealing to catalog Wilson's numerous metaphors for, or bearing directly on, representation, consensual obligation, and the suffrage. For example, Wilson frequently spoke of "representation" in America as "at once . . . the basis and the cement of the superstructure" of government,[217] and as "the faithful echo of the voice of the people."[218] He called "free and equal elections" the "original fountain, from which all the streams of administration flow";[219] and he referred to direct elections "not only as the corner Stone, but as the foundation of the fabric" of government.[220]

Somewhat more interesting, perhaps, than Wilson's often unproblematic use of such conventional metaphors are those instances when Wilson may have been intentionally or unintentionally taking recourse to metaphors in order to avail himself of the irresolution their ambiguities bespoke. For example, sometimes Wilson drew on the undifferentiated Newtonianism so common in the speech of the day[221] in order to compare the phenomena of political representation with the phenomena of "opticks."

Once, in professing his deference, as a delegate at the Philadelphia Con-

214. Beer, 72 Am. Pol. Sci. Rev. at 10 (cited in note 166).

215. Federalist No. 47, at 327 (J. Cooke ed. 1961).

216. 1 McCloskey, Works 403; cf. *id.* at 312; 2 McCloskey, Works 764, 786. Cf. Jensen, ed., at 344 (cited in note 8); cf. at 355.

217. E.g., Jensen, ed., at 343–44.

218. 1 McCloskey, Works 313.

219. *Id.* at 402. Cf. "the People" as "noble source" and "abundant fountain," in Jensen, ed., at 349; cf. at 363. And cf. Madison's use, at the Philadelphia Convention, of this rather commonplace figure of speech for "the People"; 2 Farrand, Records 476 (cited in note 3). Raoul Berger, Federalism: The Founders' Design at 44 n.114 (Norman: University of Oklahoma Press, 1987) gives other instances of it.

220. 1 Farrand, 359.

221. See esp. William Powell Jones, The Rhetoric of Science: A Study of Scientific Ideas and Imagery in Eighteenth-Century English Poetry 9ff. & *passim* (Berkeley: University of California Press, 1966). Cf. Douglas Bush, Newtonianism, Rationalism, and Sentimentalism, ch. 3 *in* Science and English Poetry: A Historical Sketch, 1590–1950, at 51–78 (New York: Oxford University Press, 1950); J.H. Randall, Jr., The Newtonian World Machine, *in* Arnold B. Arons & Alfred M. Bork, eds., Science & Ideas: Selected Readings 138, 158ff. (Englewood Cliffs, N.J.: Prentice-Hall, 1964).

Of special interest for my purposes: L.L. Laudan, Thomas Reid and the Newtonian Turn of British Methodological Thought, *in* Robert E. Butts & John W. Davis, eds., The Methodological Heritage of Newton 103 (Toronto: University of Toronto Press, 1970); and Louise Marcil-Lacoste, Reid's Understanding of Newton's Methodological Rules, *in* Marcil-Lacoste at 124–31 (cited in note 76).

vention, to the constituency who had elected him, Wilson said, "I have no right to imagine that the reflected rays of delegated power can displease by a brightness that proves the superior splendor of the luminary from which they proceed."[222] What lends special interest to this optical metaphor is the fact and the way that Wilson used it to attenuate an ambiguity in his own theory and practice of representation. For, despite his pointed language about the voice of representatives as but the "faithful echo of the voice of the people,"[223] and about the power and authority of representatives as but "the pale light of the moon" compared with the original popular sovereignty that is the "beaming splendour of the sun"[224] in a republican political system, Wilson nevertheless did exercise and defend considerable discretion for himself in his capacity as a delegate. This is, after all, the subtle point of his figurative deference in his optical metaphor: that his good judgment in the exercise of his discretion as a delegate so redounds to the credit of the constituency whom he reflects that he has no "right" to presume that such representation would "displease" them.[225]

It is, however, where the nature of federal union is concerned that Wilson's metaphorical approach to political representation becomes most interesting, because it is in his distinctive conception of representative democracy in the Federal Republic that Wilson accomplishes most in using the intrinsic ambiguity of metaphor to advance American republicanism as a matter of moral science. It is, in other words, in Wilson's federal theory that there is the most important relationship between, on the one hand, his theory of the moral significance of metaphor and, on the other hand, his concern to find the best way to "a proper understanding, valuation, cultivation, and exercise" of the right of suffrage.

So much did this right—properly understood, valued, cultivated, and exercised—epitomize American republicanism for Wilson that, unlike

222. Jensen, ed., at 341 (cited in note 8); cf. at 352. On "The Bonds of a Metaphor," see Richard Sennett, Authority 77–83 (New York: Alfred A. Knopf, 1980).

223. 1 McCloskey, Works 313 (cited in note 8).

224. *Id.* at 403.

225. Cf. 1 Farrand, Records 132–33 (cited in note 3), for a remark by Wilson, on June 6, that I think is especially revealing of the complexity of his theory of political representation: "The Govt. ought to possess not only 1st. the *force* but 2ndly. the *mind or sense* of the people at large. The Legislature ought to be the most exact transcript of the whole Society. Representation is made necessary only because it is impossible for the people to act collectively." Wilson thus urged that not just the *will* but the complete mind, or sense, of each citizen and of "the publick mind" be represented. And Wilson's emphasis on the importance of the Common Sense distinction between will and understanding, or will and knowledge, would then seem to suggest an important—perhaps a central—place in Wilson's republican theory of representation for the authority of what the People "know," not merely what they want. The implication is, I believe, that Wilson envisioned republican institutions that would, in thus representing the full self, effectively represent the People, both individually and collectively, at their best, as judged in light of what *they know* is best. Cf. Conrad, Polite Foundation, at 381ff. (cited in note 12).

That Wilson's is *not* a Burkean theory of virtual representation would seem to be clear, not just implicitly, from so much of what Wilson says elsewhere, but also expressly, in Wilson's unequivocal rejection of the unrepublican "creed" he clearly perceived in Burke's writings. See 2 McCloskey, Works 574ff.

Madison,[226] he tended to envision federal union not so much as a republican "corrective" for the previous vices of American republicanism but as a climactic "sublimation" of "the People" themselves.

As I have suggested, Wilson took very seriously this ubiquitous metaphor "the People" as an established reality in American politics. And for him, much of the reality of "the People" in America lay in the fact that the right of suffrage and the principle of representation had for the first time in history been sufficiently extended to vindicate this classical metaphor as more than mere cant. Even in Britain, by contrast, although the principle of representative government was known and had been partially instituted, it remained confined to but one "narrow corner of the British constitution."[227] Thus, said Wilson, the British government is, in truth, "a Government without a People." And this provocative assertion seemed to lead Wilson to a question that he chose to ask in apparently metaphysical terms: "*What*, then, or *where*, are the PEOPLE?"[228]

For Wilson, an authentically republican answer to this question had to "comprehend" the public personality of the citizens, considered both individually and collectively, with citizenship conceived of in terms of the right to vote and otherwise to be represented in their government.[229] And yet in continually addressing this question—in what does the quiddity of "the People" consist?—Wilson's answer at its most "comprehensive," while incorporating, nevertheless exceeded this formal, legalistic conception of citizenship.[230] Citizenship extended beyond its legal and political significance to encompass *moral* personality, especially moral imagination.

Indeed, because, in addition to the "original sovereignty" that the suffrage embodies, "obedience" is also, in Wilson's view, "a distinguishing feature in the countenance of a citizen," he took note of Aristotle's insight that "a citizen is one partaking equally of power *and* subordination."[231] But what was most distinctive to Wilson's own perspective on republican citizenship was that he reformulated Aristotle's classically republican insight in the terms of late 18th-century moral science. From this perspective, his theory of republican citizenship implicated Sir Joshua Reynolds as much as Aristotle, at least insofar as Reynolds taught that a "submission to others is a deference" altogether necessary if we are to attain "a true idea of what imagination is."[232]

If, as Wilson saw the matter, the cultivation of republican culture in

226. Banning, *in* Beeman et al., Beyond Confederation, esp. at 184ff. (cited in note 25).

227. Jensen, ed., at 354 (cited in note 8).

228. Chisholm v. Georgia, 2 Dallas 419, 462.

229. E.g., 1 McCloskey, Works 73, 406 (cited in note 8); 2 McCloskey, Works 573.

230. E.g., Chisholm v. Georgia, 2 Dallas 419, 463. Contrast Arendt, On Revolution, esp. at 107 (cited in note 26).

231. 2 McCloskey, Works 573–74 (emphasis added); cf. at 576.

232. Sir Joshua Reynolds, Discourses Delivered to the Students of the Royal Academy, ed. Roger Fry 206, 209 (London: Seeley & Co., 1905). I owe this reference to Cottom, The Civilized Imagination 17 (cited in note 150).

America depended foremostly on a process of improvement in the moral imagination of the People themselves, and if, as he had come to see more and more by the late 1780s, American republicanism, despite the improving capability of both an extensive suffrage and the civic education of civil society,[233] stood in need of further reform, then the creation of a federal union was as much a moral necessity as a political policy. Thus, whereas many of the founders, together with Madison, approached federal union chiefly as a matter of governmental structure, and therefore tended to conceive of it in terms of divided sovereignty and the respective apportionment of "national" and "state" agency, Wilson maintained such a consistent focus on the People themselves that he conceived of federal union primarily in terms of citizenship rather than government.

At the very center of his vision of federal union, then, was his projection that such a union would effectively "double" the civic personality of every citizen. As Wilson is reported by Rufus King to have said on June 25 at the Philadelphia Convention, in an American federal republic, "Every man will possess a double Character, that of a Citizen of the U.S. & yt. of a Citizen of an individl. State."[234] It was the context of debate over direct popular election of the Senate that occasioned this remark by Wilson. And it was Wilson's singular focus on popular sovereignty and his stubborn advocacy of popular political power that led him thus to formulate more clearly than any other delegate at the Convention a conception of federal union derived from this principle of dual citizenship.[235]

Madison's record of Wilson's contributions to the debates of June 25 conveys even more clearly Wilson's distinctive grasp of this conception of dual citizenship. And, as Madison reports, Wilson formulated his conception in terms that invite special attention to the process of "abstraction" in Wilson's own political science—and in his moral science, as well. According to Madison's notes, on the 25th when Wilson undertook to "explain" why direct popular election of the national Senate was so important, he returned to the general "portrait" of the Federal Republic he envisioned. This expressly "pictoral" approach afforded Wilson occasion

> to observe the twofold relation in which the people would stand. 1. as Citizens of the *Gen'l* Gov't. 2. as Citizens of a *particular* State. The Genl. Govt. was meant for them in the first capacity; the State Govts. in the second. Both Govts. were derived from the people—both meant for the people—both therefore ought to be regulated on the same principles. The same train of ideas which belonged to the relation of the Citizens to their State Govts. were applicable to their relations to the Genl. Govt. and in forming the latter, we ought to proceed, by *abstracting* as much as

233. Cf. Conrad, Polite Foundation (cited in note 12).
234. 1 Farrand, Records 416 (cited in note 3).
235. Cf. Wood, Creation 530 (cited in note 46); Smith on James Wilson, at 235–36 (cited in note 120).

possible from the idea of State Govts.[236]

Thereupon Wilson proceeded to reemphasize the Federalist principle that the general government was not to be "an assemblage of States, but of individuals for certain political purposes." Still, as important as this principle was to Federalist political science in general, and to Wilson's clarifying focus on dual citizenship as perhaps the fundamental conceptual innovation of that political science,[237] this passage is also significant as it evinces the *concept of abstraction* itself that directed both Wilson's moral science and his political science—and that led Wilson to derive the latter from the former.

It was this guiding concept of abstraction that led Wilson beyond an essentially classical (or neoclassical) conception of citizenship to a Federalist vision in which federal union was to be a political analog of the faculty of moral abstraction itself. As Wilson pointed out, even Cicero had thought it a mark of the surpassing excellence of classical republican theory that no citizen in a republic "should be obliged to belong to more than one society, since a dissimilitude of societies must produce a proportioned variety of laws."[238] Indeed, in 1776 Wilson himself had invoked this very principle of unitary and integral citizenship as an argument against Parliamentary authority over the American colonies.[239] But by the time of the Founding, Wilson had learned so much from the American political experience and from Common Sense moral science that he was among the first[240] to see the advantage, indeed, the necessity of superseding the orthodox republican principle of the indivisibility of citizenship.

By the late 1780s Wilson was as fully aware as Madison[241] of the widespread incidence of vicious disregard for and actual abuse of the right of suffrage in America. What Wilson had witnessed in his home state of Pennsylvania apparently prompted him to ask the delegates to the Pennsylvania constitutional convention in late 1789, "What is the right of suffrage, which we now display, to be viewed, admired, and enjoyed by our constituents? Is it to go to an obscure tavern in an obscure corner of an obscure district, and to vote, amidst the fumes of spiritous liquors, for a justice of the peace?"[242] And shortly thereafter Wilson lamented to his law students that in America the polls, as "the theatre of original sovereignty" in the republic, had all too often proved a scene of the "debauchery and deception" of rank

236. 1 Farrand, Records 405–6 (emphasis added).

237. → McLaughlin, 12 Pol. Sci. Q. 13 (cited in note 33).

238. 1 McCloskey, Works 245 (quoting Cicero's Pro Balbo, ch. 13).

239. See Wilson's Address to the Inhabitants of the Colonies. . . . [1776], *in* Adams, Selected Essays 103, 106 (cited in note 8): "Now the same collective Body cannot delegate the same Powers to distinct representative Bodies."

240. Cf. Randolph Adams' judgment that Wilson in 1776 anticipated what eventually became the theory of the British Commonwealth; *id.* at 12.

241. See, e.g., Adair, 2 Wm. & Mary Q. 199–200 (cited in note 23).

242. 2 McCloskey, Works 786.

electioneering.[243]

To Wilson, then, the critical problem of American republicanism in the 1780s was the problem that the right of suffrage was not properly "understood" and "cultivated" by the new political science, and was not properly "valued" and "exercised" by the People themselves. In response to this problem, Wilson projected that the formation of a federal republic as a common national enterprise would "expand the sphere" of American politics in a way that would engage the social psychology of moral abstraction in a mutually enhancing relationship with the fulfillment of the ideal of an American nation. The creation of an effective and energetic national government itself would do much, Wilson thought, to strengthen the connection with the "commonwealth" that each citizen in a republic should "feel."

Virtually from the outset of the Philadelphia Convention, Wilson made it clear that he "supposed" the People would prove "more attached" to such a national government than they had been and would be to their state governments, because the People would view the national government "as being more important in itself, and more flattering to their pride." This was an insight about the psychology of citizenship that Wilson offered as a supplement and complement to the Madisonian principle he also fully understood and endorsed, that increasing the size of electoral districts would diminish the danger of "improper elections," because "[b]ad elections proceed from the smallness of districts which give an opportunity to bad men to intrigue themselves into office."[244]

Notwithstanding, however, the importance of extending the electoral sphere, it was the psychological aspect of citizenship that most concerned Wilson. He agreed wholeheartedly in this matter with Benjamin Rush, who had encountered in his own education in America and Scotland the same moral science to which Wilson looked for fundamental authority. In a letter to David Ramsay in March or April of 1788,[245] Rush wrote about the proposed national Constitution:

> The dimensions of the human mind are apt to be regulated by the extent and objects of the government under which it is formed. Think then, my friend, of the expansion and dignity the American mind will acquire by having its powers transferred from the contracted objects of a state to the more unbounded objects of a national government!—A citizen and a legislator of the free and united states of America will be one of the first characters in the world![246]

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243. 1 McCloskey, Works 158.

244. 1 Farrand, Records 133 (cited in note 3).

245. An especially good treatment of Ramsay as a high Federalist will be found in Peter S. Onuf, State Sovereignty and the Making of the Constitution, *in* Pocock & Ball, eds. (manuscript kindly supplied by Professor Onuf) (cited in note 24).

246. 1 Butterfield, Rush Letters 453, 454–55 (cited in note 58).

In joining Rush in such assertions and aspirations,[247] Wilson, however, eventually went further than Rush, by setting out in elaborate detail in his law lectures the principles of the Common Sense moral science on which his and Rush's civic psychology was founded.[248] For, as Wilson chose to explain to his law students at great length, it was largely on the basis of this Common Sense moral science that he expected to see among the American citizenry "the social operations and emotions of the mind rise to a most respectable height."[249] Indeed, in Wilson's first recorded remarks at the Philadelphia Convention, he had augmented what was apparently his favorite metaphor for republican government, the pyramid, in his reference to "the federal pyramid" as a suasive metaphor for a federal union that would, if instituted, raise the American Republic to a higher level, in the structure and dignity of its government, at the same time that the "base" of this government, in "the people" themselves, would be "broadened" and strengthened.[250]

During his series of law lectures, by the time that Wilson arrived at his extensive discussion of American federalism, he had already introduced all the basic principles of his moral science as a foundation for his federal theory. He had thus prepared the way for conveying his Federalist vision in its quintessentially metaphorical terms. Moreover, in a preceding lecture he had already quoted prominently from the Fourth Epistle of Pope's *Essay on Man* to convey to his students, in the terms of Pope's metaphors and images, the capability of "social affection"[251] and "moral abstraction"[252] for attaining to the

247. But note Wilson's qualifications, e.g., in 1 McCloskey, Works 267 (cited in note 8).

248. Note, however, that Rush, unlike Wilson, went further in his nationalism, e.g., in that he, at the Pennsylvania ratifying convention, "insinuated that he saw and rejoiced at the eventual annihilation of the state sovereignties"; McMaster & Stone, at 300 (cited in note 8), quoted in part by Wood, Creation 529 (cited in note 46). Cf. "Harrington"—probably Rush—in a May 30, 1787 essay reprinted in John P. Kaminski & Gaspare J. Saladino, eds., The Documentary History of the Ratification of the Constitution, vol. 13—Commentaries on the Constitution, Public and Private 116, 118–19 (Madison: State Historical Society of Wisconsin, 1981): "Let the states . . . come forward, and first throw their sovereignty at the feet of the convention." I owe this reference to Onuf (cited in note 245).

249. 1 McCloskey, Works 236.

250. 1 Farrand, Records 49 (May 31).

251. 1 McCloskey, Works 227. In expounding on how man's "social affection acts . . . unmixed and uncontrolled," Wilson at *id.* quotes Ep. IV, vv. 39–46:

> There's not a blessing individuals find,
> But some way leans and harkens to the kind.
> No bandit fierce, no tyrant mad with pride,
> No caverned hermit rests self-satisfied.
> Who most to shun or hate mankind pretend
> Seek an admirer, or would fix a friend.
> Abstract what others feel, what others think,
> All pleasures sicken, and all glories sink.

Cf. at 241 (Wilson's quotation from Ep. II).

252. 1 McCloskey, Works 233–34. In picturing the process of "moral abstraction" as a mental faculty partaking of "our passions and affections . . . our moral perceptions, and the other operations of our understandings [*sic*]," Wilson quoted Ep. IV, vv. 365-372:

> The centre mov'd, a circle straight succeeds,
> Another still, and still another spreads.
> Friend, parent, neighbor first it will embrace,
> His country next, and next all the human race;

"[e]xpanded patriotism" that Wilson extolled as "a cardinal virtue" in the American federal republic.[253]

Even in the Federal Republic, Wilson acknowledged, there would, of course, be citizens who would, for one reason or another, not experience this "expansion of mind," and, indeed, citizens, who would even seduce or dupe others away from true patriotism.[254] But, in contrast to Madison, Wilson projected that, as a prudential matter, American federalism would adequately secure "patriotick emanations of the soul" among the People at large; and these "emanations"—this social psychology of republican federalism—must and would serve as the impalpable foundation for the Federal Constitution that the delegates in Philadelphia had devised. It was in large part this popular foundation to which Wilson alluded when, in his November 24, 1787 speech at the Pennsylvania ratifying convention, he spoke of a "comprehensive federal republic."[255]

In that speech Wilson also said that it had been the "great end" of the Federal Convention to "frame" a "federal and national constitution."[256] This compound term, so consonant with Madison's own theory as set out in *Federalist* No. 39, is significant in recalling the point that, unlike Hamilton and Rush, for example, Wilson sought, virtually from the outset of the Federalist campaign, to promote a nationalism that, for all its affective national patriotism, would also preserve the federal principle, as embodied in a necessary, though subordinate, role for the several state governments.

Wide and more wide, th' o'erflowings of the mind
Take ev'ry creature in, of ev'ry kind;
Earth smiles around, with boundless bounty blest,
And heav'n beholds its image in his breast.

But contrast Pope's scatological use of the same metaphor, concentric circles in water, in The Dunciad, bk. III, lines 403–10. I owe this reference to Aubrey Williams; cf. *supra* note 148.

In Hume's *Treatise of Human Nature* the image of concentric circles is invoked, although not precisely in those terms, for something very like what Wilson himself (1 McCloskey, Works 266; cf. at 162) acknowledges to be a principle of "concentricity" in our relations with others. See the Treatise, bk. III, pt. II, sec. II, Nidditch, ed., at 488 (cited in note 74): "Now it appears, that in the original frame of our mind, our strongest attention is confin'd to ourselves; our next is extended to our relations and acquaintance; and 'tis only the weakest which reaches to strangers and indifferent persons." Cf. sec. I (at 483–84): "A man naturally loves his children better than his nephews, his nephews better than his cousins, his cousins better than strangers, where every thing else is equal." Cf. also the discussion in sec. III (501–13), "Of the rules, which determine property," for Hume's notions of the progressive weakening of connections as the degree of succession becomes more distant. I owe these references to my good friend Professor Edward ("Ned") McClennen.

Cf. to Hume's ideas and language what a student of Adam Smith's Theory of Moral Sentiments calls Smith's "theory of the spheres of human intimac ➞ Russell Nieli, Spheres of Intimacy and the Adam Smith Problem, 47 J. Hist. Ideas 611, 620ff. (1986). And cf. Cicero, as quoted by Wilson, in 1 McCloskey, Works 162.

The difference here between Wilson, on the one hand, and Hume and Smith and Cicero, on the other, would seem to turn on Wilson's emphasis on overcoming, through the cultivation of moral abstraction and an expanded patriotism, what Wilson himself acknowledges to be the psychology of centripetal "concentricity" that all four thinkers find in human nature.

253. 1 McCloskey, Works 268 (cited in note 8).

254. *Id.* at 267.

255. Jensen, ed., at 345 (cited in note 8).

256. *Id.* at 361.

At the Philadelphia Convention on June 7, when John Dickinson compared national union in a federal system to the relationship between the sun and the planets in "the Solar System," Wilson immediately seized on the metaphor and amplified it, in order to disavow any aim at national "consolidation," and to emphasize the inherent ambiguity that must inform a constitution that is at once "national and federal." Wilson said,

> He did not see the danger of the States being devoured by the Nationl. Govt. On the contrary, he wished to keep them from devouring the national Govt. He was not however for extinguishing these planets as was supposed by Mr. D.—neither did he on the other hand, believe that they would warm or enlighten the Sun. Within their proper orbits they must still be suffered to act for subordinate purposes.[257]

To be sure, Wilson presumed that, should a "difference" ever arise between the "interest of a single state" and that of "the Union"—and he projected that such differences could be avoided[258]—then the "welfare of the whole should be preferred to the accommodation of the part."[259] Thus it was that Wilson concluded his law lecture on federal theory with a quotation from no less an authority than the poet James Thomson, in support of the principle of civic psychology that the mind of the citizen is, by its own natural capability for moral abstraction, ultimately drawn to the "*central* parent-publick" by the force, as it were, of "moral gravitation."[260]

Still, it was not primarily the resonant nationalism in the pure diction of Thomson's verses but rather the synthesis of knowledge and virtue they reaffirmed that, above all, made for the welcome congruence Wilson saw between

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257. 1 Farrand, Records 153–54 (cited in note 3). Cf. Madison's "recurrence," on June 8, to "the illustrations borrowed from the planetary System"; *id.* at 165 ("This prerogative of the General Govt. is the great pervading principle that must controul the centrifugal tendency of the States; which, without it, will continually fly out of their proper orbits and destroy the order & harmony of the political system"). Cf., as well, Robert Davidson, An Oration on the Independence of the United States of America 15 (Carlisle, Pa.: Kline & Reynolds, 1787), as quoted by Lienesch, 11 Am. Pol. Q. at 397 (cited in note 109).

258. See, e.g., 1 McCloskey, Works 264 & 2 McCloskey, Works 764; Jensen, ed., at 344 (all cited in note 8). But most interesting of all, perhaps, is Wilson's faith that codification of the law could prevent such nation-state conflicts. See the long quotation from a letter Wilson wrote to Washington in 1791, in which Wilson offered to undertake the task of codifying the law of the United States (!), in Lucien Hugh Alexander, James Wilson, Patriot, and the Wilson Doctrine, 183 N. Am. Rev. 971, 976 (1906). Cf. Perry Miller, The Life of the Mind in America: From the Revolution to the Civil War (Books 1–3) 240–41 (New York: Harcourt, Brace & World, 1965); 1 McCloskey, Works 59-64 (Wilson's 1791 letter to the Pennsylvania Speaker of the House, proposing a similar codification of Pennsylvania law). Contrast Madison's views, at least later in life: e.g., see Meyers, Mind of the Founder, 1st ed., at 431 (cited in note 29).

Also cf. 1 Farrand, Records 166–67, 356 (cited in note 3).

Furthermore, unlike Madison, Wilson tended to see the human propensity to factionalism as generally amenable to regulation through the civic regimens of republicanism. Cf. McCloskey, Works 266–67.

259. *Id.* at 267–68; Jensen, ed., at 346; cf. at 351; 2 Farrand, Records 615.

260. 1 McCloskey, Works 268-69 (emphasis added). And, in fact, Wilson did pursue the logic of his theory of moral abstraction, from a conception of national citizenship to a conception of international citizenship. See, e.g., *id.* at 162–64. Cf. my text *infra* at note 301.

Thomson's polite poetics and the polite moral science that sustained Wilson's own federal theory. In Thomson Wilson found what Douglas Bush has helped 20th-century readers to appreciate: that Thomson's verses stood as a culmination of an 18th-century tradition of the "discursive mixture of description and reflection," especially as Thomson's poetry attested to a sense of "truth spontaneously felt."[261] Moreover Wilson saw a thoroughgoing correspondence between this conception of "truth" and Montesquieu's conception of republican "virtue." For, as Montesquieu had said, "Virtue in a republic is a most simple thing . . . it is a sensation that may be felt by the meanest as well as by the highest person in a state."[262]

From both Pope and Thomson, then, Wilson's "modern" republican theory could draw on the cultural authority of "philosophical poets" who were "much too clever to be philosophers"[263] of the "profound species" that Hume encouraged.[264] Through the use of conventional[265] metaphors, which recognized "the particular" but also moved by abstraction beyond it to a recognition of "general nature,"[266] a poet such as Thomson commanded an authority that was regarded as much as a matter of truth as of rhetoric, to any extent that the distinction might have been meaningful at the time.[267]

In Wilson's law lecture on federalism there is also a telling implicit endorsement of the Aristotelian principle that poetry is "more philosophical than history because it is more 'universal.' "[268] For Wilson ultimately makes it clear that, in his own avowedly "philosophical" approach to a theory of American federal union, the authority of history counts for little—and, at that, mostly as history can be invoked against its own authority.

Wilson intimated this point in his remarks of June 25 at the Federal Convention when he alluded to the well known model of European federal union envisioned in the Grand Design of Henry IVth of France.[269] But among all of

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261. Bush, Science and English Poetry 64, 67 (cited in note 221). Granted, Bush's approach to Thomson must now seem a little too simple, in light of work like that of Ralph Cohen, The Unfolding of The Seasons (Baltimore: Johns Hopkins Press, 1970). But Cohen's reading of Thomson occasionally approximates Bush's views as quoted here; see, e → Cohen at 328-29.

262. 1 The Spirit of the Laws, bk. V, ch. 2; trans. Thomas Nugent, intro. Franz Neumann, at 40 (two vols. in one. New York: Hafner Publishing Co., 1949).

263. Bush, Science and English Poetry at 63 ("Pope was much too clever to be a philosopher").

264. Cf. J.M. Cameron, Doctrinal to an Age: Notes Towards a Revaluation of Pope's *Essay on Man*, in Maynard Mack, ed., Essential Articles for the Study of Alexander Pope 353, esp. at 358–59 (rev. ed. Hamden, Conn.: Archon Books, 1968). For an interesting and relevant aside from Wilson on Pope, see 2 McCloskey 596-97 (cited in note 8). And for what remains the seminal work of modern scholarship on Pope's *Essay on Man*, see Maynard Mack's Introduction to his edition of the poem, in the Twickenham series (London: Methuen, 1950).

265. Cf. Morse Peckham, Metaphor 420 (cited in note 188).

266. Walter Jackson Bate, From Classic to Romantic: Premises of Taste in Eighteenth-Century England (New York: Harper & Bros., 1946), esp. ch. 3 ("Johnson and Reynolds: The Premise of General Nature"). Cf. Donald Davie, Purity of Diction in English Verse 40–53 (London: Routledge & Kegan Paul, 1967); and Ricoeur, Rule of Metaphor 99 (cited in note 182).

267. Cf. Peckham, Metaphor, esp. at 401–2.

268. Cf. Booth, Metaphor, at 68 (cited in note 180).

269. E.g., 1 Farrand, Records 405 (cited in note 3). On the Grand Design itself, which is

Wilson's public remarks on American federalism that have come down to us, it is only in his law lecture on the topic that he elaborates his point fully: Although, as Wilson's own survey of history concluded, the American experiment with an extensive federal union had no precedent in *actual* historical experience,[270] the history of the human *imagination* did afford a precedent. And Wilson took this precedent as but another vindication of his idea that the civilized imagination is by far the most important source of experience in moral science, and therefore in political science, as well. Even though Henry and his minister Sully, together with Elizabeth of England, had failed to realize their shared vision of a new model of European federal union, this did not mean that their vision had been but a "presumptuous and extravagant . . . chimera."[271] To such a putative charge Wilson responded with "the poet's exclamation," in this instance a couplet taken, again, from Pope:

> Truths would you teach, or save a sinking land?
> All fear, none aid you, and few understand.[272]

Indeed, the visionary character of the Grand Design was, to Wilson, not a shortcoming of the project but the chief mark of its greatness. Thus, after having reviewed a number of historic examples of confederations, both ancient and modern, and having found all of them wanting as models worthy of emulation, Wilson turned to the unrealized Grand Design as a plan for a "sublime system" of federal union that he thought "must be interesting as well as instructive" to Americans.[273] And, although in earlier discussing those other, inadequate historic examples of experiments with federalism, Wilson had tended to concentrate on the details of their structure and operation, his lengthy discussion of the visionary Grand Design maintained one consistent and quite different focus: appreciating that what had inspired this hitherto unique plan of federal union, what would have animated it if it had been established, and what remained important about it, was its moral purpose and moral promise. Wilson said,

> One inference may be drawn from the nature of the design, which Henry had formed. It was not a design inspired by mean and despicable ambition: it was not a design, guided by base and partial interests: it was a design, in the first place, to render France happy, and permanently

now generally attributed to Sully rather than to Henry himself (cf. Madison's own revision of his *Notes, id.*), see Peace Projects of the Seventeenth Century. . . , ed. J.R. Jacob & M.C. Jacob (New York: Garland Publishing Co., 1972). Cf. Desmond Seward, The First Bourbon: Henri IV, King of France and Navarre 186-201 (London: Constable, 1971). Also of interest here—and most to the point perhaps—is Heinrich Mann's novel, trans. from the German by Eric Sutton, Henry, King of France (Woodstock, N.Y.: Overlook Press, 1985), esp. "Book Eight: The Great Plan."

270. For Wilson's survey, see 1 McCloskey, Works 247–54 (cited in note 8).

271. *Id.* at 259–60.

272. *Id.* at 260 (quoting from the Essay on Man, Ep. IV, vv. 265–66).

273. *Id.* at 261.

> happy: but as he well knew that France could not enjoy permanent felicity, unless in conjunction with the other parts of Europe; and as he was well pleased that the other parts of Europe should participate in the felicity of France; it was the happiness of Europe in general which he laboured to procure; and to procure in a manner so solid and so durable, that nothing should afterwards be able to shake its foundations.[274]

Such was the allusive encomium Wilson incorporated into his law lecture as a way of preparing his audience for the culminating passage in this his most thorough exposition of the federal theory that he had advocated and defended on so many other occasions:

> Let me add another remark, which has been made in Europe, and which, with pride and joy, may be transferred to America. "Henry The Great has always had the honour of being considered as the author of the most important invention for the benefit of mankind, that has yet appeared in the world; the execution of which may, perhaps, be reserved by Providence, for the greatest and most capable of his successors." This rich succession has been reaped in America. Here the sublime system of Henry the Great has been effectually realized, and completely carried into execution.[275]

It was, then, the "sublime" moral purpose of American federalism that was, to Wilson, its most important feature as a republican political project.

This is most generally evident, perhaps, in the way Wilson articulated his ideas about representation. As expounded through his continual appeals to metaphor, his conception of representation consistently bespoke the mode of thought of his Common Sense moral science. It was a mode of thought that, like the late 18th-century ideal of polite culture itself, tended to see nearly every politically significant duality as an opportunity for mutual enhancement through the ambiguities of reciprocal influence. It was, for just this reason, a mode of thought essentially and thoroughly metaphorical.[276] And so thoroughly did it infuse Wilson's popular constitutionalism of moral personality that Wilson came to project the sublimation, or "subliming," of popular authority itself through the ambiguities of metaphor.[277]

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274. *Id.* at 260.
275. *Id.* at 261.
276. Cf. Ricoeur, Rule of Metaphor 99 (cited in note 182) (on the attenuated "polarity" between "singular identification" and "general predication"); and cf. the analogous distinctions (e.g., vehicle/tenor, focus/frame, modifier/principal subject) that Ricoeur draws from the work of I.A. Richards, Max Black, and others, at 99 and *passim*.
277. → Dennison, 39 Rev. Pol. (cited in note 32).

VIII. CONCLUSION: THE MANDARIN DEMOCRACY OF "DEMOCRATIC NATIONALISM"

> "Our pride is more offended by attacks on our tastes than on our opinions."
>
> —La Rouchefoucauld, *Maxims*[278]

In this article I have called attention to a number of the salient dualities in the articulate political culture of America during the climactic years of James Wilson's public career, the late 1780s and early 1790s. Those dualities included, to name but a few: morals and science; virtue and politics; imagination and experience; judgment and knowledge; society and individual; general nature and particular nature; elected representative and enfranchised citizen; nation and state; and—of special interest to me, and to Wilson and many of his contemporaries during those years—Federalism and republicanism.

Some commentators of that time virtually *identified* the two elements in some of those dualities; and occasionally a commentator even tended to see analogies, or relationships of nearly identical correspondence, between and among such dualities. Other commentators saw, instead of virtual identities, virtual antinomies. The variety of views was great—greater, perhaps, than we yet appreciate in our historical treatments of the Founding. In any case, the complexity of the views of a few familiar leading figures—above all, Madison—is commonly, if not fully, appreciated.

Compared and contrasted with Madisonian theory as a bench mark, the complexity of Wilson's approach to the same problems of American constitutionalism that concerned Madison becomes most interesting where Wilson's endeavors at theorizing proceed in a way quite different from Madison's, yet lead Wilson to similar conclusions and prescriptions.

For this reason I have wanted to attend much more to *how* Wilson practiced theory than to the important but less interesting—because less neglected and, I believe, ultimately *less important*—matter of his substantive political positions and his practical politics in the unsettled early moments of the Federalist period.

From this perspective, it would be both difficult and wrong to continue to overlook the self-conscious metaphorizing in Wilson's method. Not only did he emphasize it, and his contemporaries remark on it, but—and here is my chief concern—Wilson went to great lengths to "justify" his metaphorizing. And in justifying his essentially metaphorical, figurative approach to American constitutionalism, he thought that he was also justifying a strongly nationalist, yet genuinely federal, conception of the Federal Republic.

278. As quoted in Pierre Bourdieu, Distinction: A Social Critique of the Judgement of Taste (1979), trans. Richard Nice, at 257 (Cambridge, Mass.: Harvard University Press, 1984).

Professor Robert McCloskey, the modern editor of Wilson's collected *Works*, characterized Wilson's federal theory as a theory of "democratic nationalism." And McCloskey added that the very idea of democratic nationalism was, in Wilson's day, "so unusual that it seemed incongruous."[279] The point is well taken.

From the outset the entire Federalist campaign was widely associated with "aristocratic" impulses in the American political culture of "revolutionary settlement." And Wilson's own personal demeanor and political alliances (to say nothing of his avid and clumsy chasing after public office and private wealth) evidently made it all the more difficult for many of his contemporaries to understand, much less to accept, his professedly democratic Federalism. Unsurprisingly, during the ratification debates, his cleverest political adversaries sometimes railed to best effect against Wilson and the proposed Constitution by scorning the very idea of democratic nationalism as dangerous "sophistry" and by mocking Wilson's exposition of the idea as patent "equivocation" and "evasion."[280]

So charged the author of a notable essay, first printed on November 6, 1787 in a Philadelphia newspaper, who sought to regain the ground the Anti-Federalists had recently lost in the aftermath of Wilson's widely circulated State House Speech of October 6. This essay was not the first major public reply to Wilson's speech,[281] but for the purposes of the argument I have tried to develop in the preceding pages, this November 6 essay is especially significant. Unlike most other Anti-Federalist rebuttals to Wilson, which rejected the idea itself of democratic nationalism as vicious political science inimical to the ideal of popular republican virtue,[282] the Anti-Federalist author of the essay in question seems to have appreciated that, for Wilson, democratic nationalism was as much a pretense to greater "knowledge" as to greater virtue, and as much a matter of "exalted imagination" as of political science.[283]

And yet, for all his insightfulness, this Anti-Federalist author could not or would not credit Wilson's rhetoric as argument, either sincere or coherent. In the view of this adversary, Wilson's "sublime" federal theory was, at worst, a disguise and, at best, a delusion.[284] In any case, it was incumbent on any true "patriot" to proclaim that Wilson's "high idea" of democratic national-

279. McCloskey, James Wilson 85 (cited in note 8); cf. 1 McCloskey, Works 25 (editor's Introduction).

280. Jensen, ed., at 210–16, 213 (cited in note 8).

281. See *id.* at 192–98, esp. 198 n.1.

282. The pamphlet by Mercy Warren that I have discussed briefly, in my text *supra* at note 177ff., is another exception in this respect, as its authoritative modern editor points out: see 4 Herbert J. Storing, ed., The Complete Anti-Federalist 271 (Chicago: University of Chicago Press, 1981).

283. Jensen, ed., at 213–14.

284. Cf. Rufus King's anticipation of this theme on June 19 at the Federal Convention, as King's words are recorded in Madison's Notes: 1 Farrand, Records 323 (cited in note 3): "He conceived that the import of the terms 'States' 'Sovereignty' '*national*' 'federal,' had been often used & applied in the discussion inaccurately & delusively."

ism was, in fact, "tainted with the spirit of *high aristocracy*."[285]

During the ratification debates Wilson answered the charge of covert aristocracy made against him and his federal theory—for example, by citing the consistency of his preference for the democracy of direct popular elections.[286] But, paradoxically, his federal *theory* proved more difficult to defend than the actual positions he had taken in supporting and promoting the creation of the Federal Republic—so difficult, or complex, it seems, that he saved his most thoroughgoing statement of constitutional theory and self-justification for the classroom, or, more precisely, for his written law lectures, which he hoped would stand as his most lasting contribution to patristic commentary on the new Constitution.

It was the setting of the classroom, or rather, the format of his self-indulgent professorial lectures, that elicited from Wilson his most "comprehensive" exposition of American federalism, because his constitutional theory in general derived from a moral epistemology that Wilson himself apparently considered too "philosophical" for the political forum—except as he could routinely expound that philosophy in terms of its own shaping mentality of metaphor. In fact, more than one eminent historian has surmised that even in these lectures Wilson sadly overestimated the taste of his contemporaries for his manifestly "diffusive . . . scholarly and elegant" way of presenting his views on "general jurisprudence," "the Constitution," and the "Federal Government."[287] Perhaps, then, given the mandarin[288] character of his ideal of a politics of moral cultivation through "moral abstraction," Wilson's "democratic faith" was not as great as we have repeatedly been told by the handful of scholars who have tried to rehabilitate him.

But an alternative explanation for the eventual, or, rather, the quick decline of Wilson's distinctive federal theory is equally plausible. According to this explanation, the climax of Wilson's career as a theorist of American federalism came neither at the Philadelphia Convention, nor during the ratification debates, nor even in the classroom, but on the bench. It came in his judicial opinion in the 1793 case of *Chisholm v. Georgia*.[289] There he invoked "the People" as a metaphor of such "comprehensive" authority and significance that this metaphor rendered not only the "sovereignty" of a "state" a solecism but "popular sovereignty" itself a tautology.[290]

The political and legal reaction to the decision in *Chisholm* was an imme-

285. Jensen, ed., at 213. Cf. Smith on James Wilson at 266 (cited in note 120) (quoting the same Anti-Federalist writer).

286. E.g., Jensen, ed., at 169–70 (the State House Speech).

287. Charles Warren, A History of the American Bar 348 (Boston: Little, Brown & Co., 1911), at 348; cf. 346–47, 349. Cf. Perry Miller, The Life of the Mind in America: From the Revolution to the Civil War (Books 1–3) 141 (New York: Harcourt, Brace & World, 1965).

288. This term was suggested to me by Professor R. Kent Newmyer.

289. Cf. Seed on Wilson 141 (cited in note 161).

290. 2 Dallas 419, 454–56. For a convenient, and typically acute, exposition of how the logic of Wilson's republican theory was, by the time of his law lectures, pointing beyond the concept of

diate and widespread outcry of protest that soon became a campaign to "overrule" the Court by amending the Constitution itself.[291] Acting first in their national legislature and then in their several state legislatures, "the People" thus reacted to the *Chisholm* decision in a way that has sometimes been taken to mark the only occasion "in its history [when] the federal judiciary [has] had its jurisdiction directly curtailed by constitutional amendment."[292] This apparently popular reaction against *Chisholm*'s "symbolic affront to [state] sovereignty"[293] suggests, perhaps, that the tasteful formulas of synthesizing ambiguity that were at the heart of Wilson's theory of metaphor—and at the heart of his theory of American federalism—were, to the American "publick mind" of his day, more problematic and less engaging than Wilson "knew."[294]

In Wilson's written opinion in *Chisholm*, it seems to have been his *style* and his *way* of "reasoning," even more than his holding, that proved most provocative. A passage from a letter written by the framer William Davie to his (and Wilson's) friend Associate Justice James Iredell is so illustrative of the predominant reaction to Wilson's opinion—both in 1793 *and today*[295]—that it deserves to be quoted at length:

I confess I read some of these arguments [in *Chisholm*] and particularly

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"sovereignty" altogether, see Adams, Political Ideas 185ff. (cited in note 8). But see Pole, Enlightenment 210 (cited in note 181).

And for two recent corroborations of Robert McCloskey's general claim that Wilson's ideas often anticipated those of later American constitutional theorists, especially where Wilson might seem to have been out of step with the development of republican theory in his own time, see Andrzej Rapaczynski, From Sovereignty to Process: The Jurisprudence of Federalism after *Garcia*, 1985 Sup. Ct. Rev. 341, esp. 346-59; and Akhil Reed Amar, Of Sovereignty and Federalism, 95 Yale L.J. 1425, esp. at 1520 (1987), where Amar selects as authority in support of his own conception of what American federalism should be precisely those passages from Wilson's *Chisholm* opinion that reveal Wilson at his most quintessentially Common-Sensical.

291. See, e.g., Doyle Mathis, *Chisholm v. Georgia*: Background and Settlement, 54 J. Am. Hist. 19, 25ff. (1967); Mathis, The Eleventh Amendment: Adoption and Interpretation, 2 Ga. L. Rev. 207, 224ff. (1968); and the citations collected in Wilfred J. Ritz, American Judicial Proceedings First Printed Before 1801, at 146–48 (Westport, Conn.: Greenwood Press, 1984).

292. Alfred H. Kelly et al., The American Constitution: Its Origin and Development 167 (6th ed. New York: W.W. Norton, 1983). But see gener → William A. Fletcher, A Historical Interpretation of the Eleventh Amendment: A Narrow Construction of an Affirmative Grant of Jurisdiction Rather than a Prohibition Against Jurisdiction, 35 Stan. L. Rev. 1033 (1983).

2 → Fletcher, 35 Stan. L. Rev. at 1058 (cited in note 292). That the *Chisholm* case had an effect on the People at, but *only* at, the symbolic level is reaffirmed in John Orth, The Judicial Power of the United States (New York: Oxford University Press, 1987) at 19: "*Chisholm* was part of the high drama of public affairs"; and at 28: "The search for the original understanding on state sovereign immunity. . . . The understanding of the electorate let alone of the populace as a whole upon a topic so esoteric was undoubtably nil."

294. Cf. the remark in Archibald Cox, The Role of the Supreme Court in American Government (New York: Oxford University Press, 1976), at 117: "The Court must know us better than we know ourselves. Its opinions may, as I have said, sometimes be the voice of the spirit, reminding us of our better selves."

295. Cf., e.g., the views collected in David P. Currie, The Constitution in the Supreme Court: The First Hundred Years, 1789–1888, at 15, nn.75 & 76 (Chicago: University of Chicago Press, 1985). See also Julius Goebel, Jr., The Common Law and the Constitution, *in* W. Melville Jones, ed., Chief Justice John Marshall: A Reappraisal 101 (Ithaca, N.Y.: Cornell University Press, 1956), at 112: "Even the professor on the Court, Mr. Justice Wilson, held in check the academic penchant for display, giving way to it only in *Chisholm v. Georgia*" (footnote omitted).

> that by Mr. Wilson with astonishment: however, the scope and propriety of this elaborate production called an argument, were expressly reserved for the contemplation of "a *few*, a *very few* comprehensive minds;" and, perhaps, notwithstanding the tawdry ornament and poetical imagery with which it is loaded and bedizened, it may still be very "profound." On this I shall give no opinion: but as a law argument it has certainly the merit of being truly "*original*." His definition of the American States as sovereignties is more like an epic poem than a Judge's argument, and we look in vain for legal principles or logical conclusions. . . . [T]his whole argument of his seems to be the rhapsody of some visionary theorist.[296]

Nevertheless, if the "publicity" accorded to the written opinions of the justices of the Supreme Court in its early years was in fact as "scant" as some historians believe,[297] then it is possible, as Robert McCloskey suggested more than once, that Wilson did, after all, "know" the American People better than they knew themselves at the Founding, better than they later came to know themselves, and even better than they *yet* know themselves.[298]

To vindicate such a generous interpretation of Wilson's visionary constitutionalism would, however, require not only a "comprehensive" review of two centuries of constitutional history but also an insight into the future to which conventional historical scholarship seldom aspires. Still, any such vindication would have to begin by coming to terms not only with the question of what Wilson thought he knew but also with the questions of why and how he thought he knew it. Thus, even a modest contribution toward answering these latter questions about one of the most curiously obscure of our most important founders should have something to offer today, both to backward-looking constitutional historians and to forward-looking constitutional theorists.

At least I believe so; and here I have presented an argument sympathetic to (but, I trust, not uncritical of) Wilson in order to explain *why* I believe so.

As Professor Peter Onuf has observed, in the late 1780s, "[T]he Federalists succeeded in shifting debate forward in time . . . to project the inevitable transformation of the American states into hostile sovereignties."[299] As a leading Federalist, Wilson projected that far, and further still—in some respects, even more profoundly, perhaps, than Madison did. For Wilson's conception of federal union, while less liberal, or at least, less pluralistic—and also less contingent on the vagaries of politics—than Madison's, was, at the same

296. 2 Griffith J. McRee, Life and Correspondence of James Iredell, One of the Associate Justices of the Supreme Court of the United States 382 (2 vols. 1857. Reprint ed., 2 vols. in 1; New York: Peter Smith, 1949).

2 → Fletcher, 35 Stan. L. Rev. at 1058 n.115 (cited in note 292) (citing Charles Warren).

298. 1 McCloskey, Works 1–6, 46–47 (editor's Introduction) (cited in note 8); McCloskey, James Wilson 79–80, 89–90, 95–96 (cited in note 8), esp. at 96: "Perhaps he has been unappreciated by the future, [*sic*] because America, though following in his footsteps, has never quite caught up with him."

299. Onuf, State Sovereignty and the Making of the Constitution, *in* Pocock & Ball, eds. (cited in note 24).

time, more intrinsically expansible. And this expansibility of Wilson's conception of federal republicanism, or republican federalism, was for the most part owing to the way Wilson thought, talked, and wrote about federal union. He relied on a language of metaphor and a "figurative realism" so ambiguous—not necessarily *vague*, but purposefully ambiguous—that, while plainly rooted in the social theology of the conservative, "polite" Atlantic culture of his day, his metaphors might at times seem to some progressive constitutional theorists today even more "modern"—and more politically and morally capable—than Madisonian liberalism at its historic best.[300]

Not only was Wilson's conception of federalism so expansible that it pointed beyond nationalism to internationalism,[301] his basic idea of constitutional authority was so inherently ambiguous that no other founder of the 1780s spoke or wrote so remarkably like the American political theorist who has lately explored the relationship between politics and ambiguity most thoroughly: Professor William E. Connolly argues in his recent book about this relationship that "the mode of authority appropriate to modernity involves an appreciation of its ambiguous character . . . [A]n appreciation of ambiguity must be installed in the institutional matrix of society if authority is to assume its appropriate place in modern life."[302]

Nevertheless, Professor Connolly ultimately qualifies and questions his point even while making it: "We need the word, though not it alone, to give definition to social life, but the word disciplines as it forms. Is politics, at its best, a medium through which to cultivate attentiveness to each side of the equation?"[303]

Here, from the modern political theorist, comes a warning not expressed or implied in any of Wilson's extant writings or in the words of Cynthia Ozick, the modern novelist and critic from whom I took my principal epigraph at the head of this article. Professor Connolly's warning is one about the political inadequacy of language alone. It is also a warning about the limited capability of *knowledge* itself in politics, regardless of whether the knowledge is "imagined" or otherwise.[304]

Restated so as to address the governing metaphor of Wilson's constitutional theory, this is a warning that "the People" is, strictly speaking, much more an "invented entity"[305] than an "imagined reality." And the *invention* at issue, while a matter of ambiguity, is not only a matter of metaphor, but of

300. Cf. Ira L. Strauber, The Rhetorical Structure of Freedom of Speech, 19 Polity 507 (1987), esp. at 528. Note that Strauber, in his approach, aligns himself with others, including James Boyd White (see works cited in note 6) and Lief H. Carter. See Carter, Contemporary Constitutional Lawmaking: The Supreme Court and the Art of Politics (New York: Pergamon Press, 1985).

301. See 1 McCloskey, Works 270–83, esp. 282–83. Cf. Adams, Selected Essays 38–42 (cited in note 8).

302. Connolly, Politics and Ambiguity 128 (Madison: University of Wisconsin Press, 1987).

303. *Id.* at 160–61.

304. *Id.* at xi–xii.

305. Shklar, Ordinary Vices 71–72 (cited in note 131).

historical *and* contemporary life and things—of "the sons of heaven": As an "invention," in both senses of that ambiguous term, *the American People*, is *in part* an entity that we now *find* already established in American constitutionalism; but it is also an entity that we continually must and do *contrive*, both as an end in itself and as a means to other ends that are also so difficult to articulate that they too continually require us to rely on Wilson's governing metaphor, *and* on much else that no metaphor could "comprehend."

The "powers of the imagination" have their practical limits—as Wilson found out. Benjamin Rush's diary contains a December 1796 entry that tells something about the personal price Wilson, as one of the great early speculators on the future of America, eventually paid for a visionary impulse that became a compulsion: "This month great [financial] distress pervaded our city [of Philadelphia] from failures, &c. . . . 150, it is said, occurred in 6 weeks, and 67 people went to jail . . . . Judge Wilson deeply distressed; his resource was reading novels constantly."[306]

This, however, is not to say Wilson was necessarily wrong in believing that, if the American Constitution fails, the cause will be a failure of imagination on the part of "the People themselves."

306. George W. Corner, ed., The Autobiography of Benjamin Rush: His "Travels Through Life" together with his *Commonplace Book* for 1789–1813, at 236–37 (Princeton, N.J.: Princeton University Press, 1948).